IN THE UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA PLAINTIFFS, vs. THE CITY AND COUNTY OF SAN SAN FRANCISCO, et al., DEFENDANTS.	Civil Action No. C-84-7089 MHP MON & No. C-84-1100 MHP MON MONITOR'S 18TH REPORT RECOMMENDING THAT DEFENDANTS BE HELD IN CONTEMPT OF COURT
FONTAINE DAVIS, et al., Plaintiffs, In Intervention. vs. THE CITY AND COUNTY OF SAN FRANCISCO, et al., Defendants, In Intervention.	

I. INTRODUCTION

The City and County of San Francisco, its present Fire Commission consisting of John A. Ertola, Laurence Griffin, Thomas Ng, Charles Morrow, and Norma Molinar, and its Chief of Department Joseph Medina have demonstrated their lack of either the will or the ability to implement the Consent Decree. Defendants' disregard for the obligation to implement the Decree

is established by their failures to take appropriate and timely actions necessary for effective implementation as will be shown below. This failure of leadership by the Fire Commission and Chief of Department abandons those Chief Officers, other officers and firefighters who accept the existence of the Consent Decree and want to get on with overcoming their differences and solving the Department's problems. It is now reported that even life at the firestations reflects a relaxation of constraints on behavior and the expectation that "things will return to how they were."

Defendants most recently manifested their disregard by ignoring the Court's specific instructions with respect to timeliness of submission of the management plan. Defendants also took the extreme step of resorting to misrepresentations to the Court to obtain their objectives. In the Ex Parte Application for an Order Extending Time to Submit the San Francisco Fire Department's Management Plan, defendants represent that "[t]he City did not realize that it could not timely submit a final Management Plan until this week [dated October 9, 1992]." In fact, on September 28, 1992, the Chief of Department informed the Monitor that the Commission did not intend to consider a final plan until its meeting of October 13, 1992. The defendants' representations to the Court are clearly contradicted by the statements of the Chief of Department. The City has failed to explain this discrepancy despite the Monitor's calling it to the attention of counsel.

Further, Defendants' failure to submit the plan in timely fashion is compounded by their failure to make a good faith

effort to engage in meaningful consultation with Plaintiffs' counsel. The plan actually submitted for comment by Defendants was deliberately skeletal and was wholly inadequate as a management and reorganization proposal. By failing to comply substantially with this first deadline, Defendants frustrated the intentions of the Court.

Defendants have also failed to produce documents requested by the Monitor for the purpose of evaluating Consent Decree compliance and the proposed management plan. On April 13, 1992, the Monitor requested production of all documents generated since January 1, 1992 relevant to charges, claims and reports of unusual occurrences and alleged rule violations involving allegations of discrimination or harassment based upon race or sex. Nothing has been produced in response to that request. As will be shown below, the City has also been notoriously dilatory in responding to other requests of the Monitor and counsel for Plaintiffs to the detriment of Consent Decree enforcement.

Defendants' behavior compels the conclusion that it is either unwilling or unable to implement the Consent Decree. The facts also support the conclusion that the substance of the City's management plan is detrimental to the implementation of the Consent Decree. Further, the facts show that the City's representations with respect to its diligence and its reasons for the substance of its management plan are not credible. For these reasons, the City and its responsible agents should be held in contempt of court and appropriate relief in the nature of placing the Fire Department in receivership with respect to

implementation of the Consent Decree should be ordered.

II. STATEMENT OF RELEVANT FACTS

A. BACKGROUND

On August 15, 1990, more than two years ago, the Fire Department was required by the Sixteenth Report of the Monitor to develop and commence not later than December 1, 1990 implementation of a plan to remedy the barriers to compliance resulting from organizational structure and management capabilities. The specific need for development of management abilities among officers was the subject of a Monitor's Report and Recommendation during 1988 with which the City agreed to comply. Obstacles emanating from the current organization structure and management capabilities were also noted in the Thirteenth Report filed May 26, 1989 and in a report filed in 1988 concerning the Station 13 incident.

The Sixteenth Report, to which defendants did not object, describes the conditions of compliance with the general prohibition of discrimination as follows:

> The subtle and not-so-subtle efforts by some officers and firefighters to undermine implementation of the Consent Decree take many forms. One manifestation takes the form of passive resistance to orders from the Chief of Department . . .; another takes the form of White officers withholding from minority officers the support and assistance routinely offered to White officers and White firefighters engaging in acts of various degrees of insubordination against minority officers. * * * While it is understandable that appropriate, fundamental change could not happen overnight, compliance is seriously jeopardized by continued delay.

The Sixteenth Report required that the Department develop and

commence implementation of a plan to remedy the barriers to compliance resulting from organization structure and management capabilities including (1) an effective system for holding officers accountable for their duties as administrators and managers and (2) a meaningful probationary system for all newly promoted officers. Among the critical needs the Department was required to address is the development of standards and their consistent application in Fire College, probationary and other in-service training and evaluation.

The Department's administration developed a reorganization plan which was relied upon by the City in obtaining Court approval of the most recent promotions to the ranks of Battalion Chief and Captain and in defending against Plaintiffs' motion that the City be held in contempt of court for compliance failures. On February 5, 1992, the Monitor met with Mayor Frank Jordan for the purpose of emphasizing the importance of compliance with the Sixteenth Report, the critical need for continuity in view of the intense two-year effort of study and debate resulting in the reorganization plan upon which the City relied in December, 1991, and the immediacy of the need to create a work environment free of harassment and discrimination in the Fire Department. The Mayor responded by replacing the entire Fire Commission and maintaining the Chief of Department in a "lame duck" limbo which devastated the Chief's ability to effectuate meaningful change.

The Monitor met with the Fire Commission on at least two occasions prior to July 1992 for the purpose of emphasizing the

importance of implementing the long-delayed reorganization plan and ensuring a workplace free of discrimination and harassment. The first meeting of the Monitor with this Commission occurred on March 4, 1992. During this meeting with the Commission, which lasted approximately 15 minutes, no member of the Commission said a word other than during greeting and departure of the Monitor. That meeting was followed on March 11, 1992 by a memorandum from the Monitor to the Commission which provided members with excerpts from a 1985 evaluation of management issues, excerpts from the Memorandum and Order Approving Consent Decree, together with the 1988 Report and Recommendation of the Monitor Re: Station 13 Incident. All of these documents illuminated the critical need to remove obstacles to Consent Decree implementation.

By letter dated May 14, 1992, the Monitor informed the City's counsel of her desire to meet with members of the Fire commission to discuss concerns about the City's compliance with the Sixteenth Report and the failure to make appointments to the rank of Lieutenant. That letter also notified the City that a formal conference was set for June 1, 1992, if matters could not be informally resolved. On May 26, 1992, the Monitor notified counsel of a formal conference scheduled to commence June 1, 1992 for the purpose of obtaining evidence related to the City's failure to comply with various recommendations of the 16th Report and allegations that the City does not maintain the Fire Department as a workplace free of discrimination and harassment on the basis of race or sex. The need for the formal conference

arose from the City's failure to:

(1) commence by December 1, 1990 a plan to eliminate barriers to compliance resulting from organizational structure and management capabilities;

(2) develop an effective system for holding officers accountable for their duties as administrators and managers;

(3) modify as necessary all future promotional examinations and selection procedures of any kind to assure that only those persons qualified to administer and manage the Department in the manner required by and consistent with the Department's policies and the Consent Decree will be promoted or selected;

(4) consider the nature and extent of appropriate training for candidates for promotion in the context of in-service training needs. The City was required to address this issue in its report on restructuring the Department and has failed to do so.

(5) address in its report on restructuring the Department the development of a meaningful probationary system for all newly promoted officers.

On May 29, 1992, the Monitor met with the City's counsel and two members of the Fire Commission and was given the impression that a reorganization plan would be finalized and submitted in June 1992. No such plan was submitted during June.

By letter dated July 1, 1992, the Monitor informed the City's counsel of the convening of an informal meeting on July 10, 1992 to discuss several issues including failure to comply with representations used by the City to avoid the June 1, 1992

formal conference and issues relating to potential acts of retaliation against Chief of Department Frederick F. Postel.

By letter dated July 7, 1992, the City sought and obtained a rescheduling of the July 10 meeting by representing that the issues raised in the July 1 letter could not be properly addressed without detracting from preparation for oral argument in the Ninth Circuit Court of Appeals scheduled for July 13 on other issues in this matter. Despite the City's description of "efforts" contained in its letter of July 7, the City clearly had failed to implement a reorganization and management plan. Further, having obtained a rescheduling of the July 10 meeting, the City found time to attend a hearing on that date before this Court and to replace Frederick F. Postel as Chief of Department.

At the conclusion of the July 10, 1992 hearing before this Court, the City was directed to prepare a proposal addressing the issues of organizational structure and management raised in the Sixteenth Report not later than August 24, 1992. The parties were provided 45 days following this date to discuss the City's plan and suggest changes. The City was directed to present to the Court the final proposal not later than October 8, 1992. All the Fire Commissioners were present in the courtroom when the schedule was announced by the Court. By letter to the Court dated July 17, 1992, the City's counsel confirmed the tasks to be accomplished and their respective due dates as ordered by the Court.

The City did not file its management proposal with the Court on October 8, 1992, as directed by the Court. On September 28,

1992, the Monitor was informed by Chief of Department Joseph Medina that the Commission did not intend to consider a final plan until its meeting of October 13, 1992. In direct contradiction to that statement, the City has represented to the Court that it was not aware until the week ending October 9, 1992 that it would be unable to comply with the Court's order. Further, the draft plan submitted on August 24 was deliberately minimal and therefore frustrated an opportunity for meaningful consultation. On October 15, 1992, more than two years after the Sixteenth Report and a week after the 90 day deadline, the Fire Commission adopted a management plan. (Attached as Exhibit 1.)

B. THE HARASSMENT OF MINORITY AND FEMALE FIREFIGHTERS AND OFFICERS CONTINUES IN THE DEPARTMENT

Some Caucasian firefighters now express to minority members of the Department that the new Chief of Department and Commission are "slowing things down" and stalling compliance until the Consent Decree expires. Racist and sexist views are now openly expressed by Caucasians because there is a feeling that the Department is now behind them. Conversations at firestations reflect a relaxation of constraints on behavior -- that things will return to how they were. Even more alarming are reports from within the stationhouses that the newer Caucasian male members of the department are expressing these same hostile attitudes in criticism of the promotions of women and minorities.

During 1992, the husband of a female firefighter visited her during dinner at her fire station which is also a Division headquarters. At the dinner table, male firefighters presented

her husband with "gift-wrapped" underpants or a G-string.

During 1992, women officers have been subjected to obscene and threatening telephone calls received at their workplaces and at their homes from members of the Department. A typical caller would say, "Fuck you. You're a bitch. You're in way over your head. Your life will be hell." One female officer received over 20 calls during a six-week period while assigned to a particular station. Prior to that assignment, she had not experienced any such calls. She no longer works at that station. Another female officer received obscene calls on the main line and the station's private line when detailed from her regular assignment under circumstances where only members of her assigned station would know her whereabouts. Males have even resorted to tickling the palm of a female officer's hand during a handshake. Obscene telephone calls were made to the female officer identified as the contact person for the Gay Pride Parade. As soon as the communications center geared up to trace the calls, the calls stopped.

Minority and female officers and firefighters are still subjected to shunning. Caucasians leave the room when they enter, refuse to respond to greetings and refuse to shake hands. Caucasian male firefighters subject women and minorities to criticism about "what the people don't know" who are going out as Lieutenants. Women officers have even been subjected to threats of physical harm while at the fire stations. Other Department members who are present during such harassment ignore what is happening.

A minority officer has been subjected to extraordinary acts of insubordination including having a crew member abandon the officer and the scene of a fire and return to the station with the fire engine.

There are several reports that drinking intoxicating substances has returned to the fire stations. There are men who are described as frightening, threatening, and abusive especially when they drink. The intoxicated talk often turns to opinions about women and minorities in the Department. There have been episodes where the entire company has been drunk while on duty except for the female or minority member. There have been several incidents of minority and female Department members refusing to eat with their companies because of alcohol consumption and the resulting increased potential for abuse.

Women serving in the position of Chief's Aide have been subjected to harassing comments in the presence of their Chief, only to experience the Chief officer's tacit approval of the harassment by failing to intervene.

Male firefighters have refused to follow orders given by female and minority officers. At one station the harassment became extreme; but the Department refused to treat the matter as a rule violation and, instead, the Deputy Chief, Operations circumvented the chain of command to deliver a "pep talk" to the station members and two unassigned Captains were removed while the third Captain was allowed to remain at the station. No disciplinary action was taken against any of the officers or firefighters.

C. THE SFFD HAD FAILED TO PROVIDE APPROPRIATE TRAINING FOR OFFICERS AND PROBATIONARY FIREFIGHTERS AS MANDATED IN THE MONITOR'S 13TH AND 16TH REPORTS

Despite the Department's knowledge that its officer training is inadequate and despite its knowledge that newly appointed women and minority officers are subjected to harassment because of the perception that the training made available by the Department is inadequate, the Department has failed to respond appropriately. The Department's "new" officer training proposal consists of little more than providing a reading list of manuals to newly promoted officers and the imposition of a written test at the end of the officer probationary period to test memory of the reading list material. The Department still does not have an effective officer and probationary training program connected to any context of officer evaluation, accountability, expectations of performance, or comprehensive plan.

It was only through the extraordinary persistence of Chief Robert Demmons in seeking the assistance of the Management Development Division of the Civil Service Commission staff and in supervising the Affirmative Action Coordinator that work necessary for development of a comprehensive training and evaluation plan has even been commenced. This effort is not reflected in the Department's proposal as Chief Demmons was not consulted during its preparation. In fact, the proposed plan would frustrate the development and implementation of a comprehensive training and evaluation program.

Defendants have frustrated efforts to monitor their conduct

by providing contradictory and inconsistent information about their training efforts, and then failing to respond to requests from the Monitor to clarify apparent discrepancies. For example, in its Draft Report on Training dated July 21, 1992, the Affirmative Action Coordinator represents that all Chief Officers, all Company Officers and most firefighters received training in "sexual harassment" during the period March 1988 through August 1989. However, in a letter dated February 12, 1990, this Coordinator represented that only 300 members had received training on women in the fire service and that training had stopped in June 1989 because of the failure to involve Assistant Chiefs as co-trainers. The Affirmative Action Coordinator also represents in the report that the entire Department participated in the "World of Difference" training during the period of May-July 1989. But a memorandum from this same person dated February 12, 1990 represented that 465 Department members missed the training.

The City represented in its letter to the Court dated July 21, 1992 that a final training report would be issued by the Department by October 1, 1992 and that a survey of Department members requesting comments on the quality and availability of training would be a critical tool in improving the training program. After reviewing the July 21, 1992 letter, the Monitor requested production of a similar survey concerning training needs that was purportedly conducted during February 1990 by the Affirmative Action Coordinator. Those documents have not been produced.

The Department has consistently refused to utilize the resources available to it through the Management Development Division of the Civil Service Commission staff to meet its pressing need for a coherent training approach. Instead, the Department has persisted irrationally in unnecessary expenditures of significant amounts of money to benefit private consultants. The Department did not even engage in meaningful consultation with the Management Development Division concerning its current management proposal.

D. THE SAN FRANCISCO FIRE DEPARTMENT RESPONDS TO RULE VIOLATIONS IN A DISCRIMINATORY MANNER

In a letter from the Chief of Department dated August 21, 1992, an African-American firefighter was notified that disciplinary action in the form of a reprimand was being imposed in response to a formal complaint of rule violation filed by an Assistant Chief on February 10, 1992. Four of the five charges contained in the complaint allegedly occurred in March and April of 1991, approximately 10 months earlier. Apparently, the firefighter involved reported the allegations of harassment in a letter dated April 25, 1992. In February 1992, the African-American firefighter was notified for the first time of all the charges against him. No action was taken following an administrative hearing on April 1, 1992.

In June 1992, the African-American firefighter became eligible for promotion to H-20 Lieutenant. He was excluded from this promotion, however, because of the charges which had been pending against him for over a year. On August 19, 1992, Chief Medina held a second administrative hearing and issued his

decision on August 21, 1992.

The letter of reprimand fails to state with any specificity the charges upon which it is based. Of the five separate charges, several were vague, lacking specificity as to the date, time, place or frequency that the harassment allegedly occurred. Chief Medina indicated at the hearing his belief that at least one of these charges was without merit. However, the letter of reprimand states that "another violation of this nature may lead to further disciplinary action", without specific findings to illuminate what constitutes "another violation". With charges including allegations that the African-American offered to stand watch for the complainant, the letter of reprimand is meaningless in apprising the disciplined firefighter of the inappropriate nature of his conduct.

The Monitor is informed and believes that there were administrative irregularities throughout the handling of this matter that are not apparent from the above facts, including the participation of the female firefighter's husband in the administrative process. The City has failed to produce the documents necessary for further investigation and verification of alleged irregularities.

To justify the Department's failure to promote the firefighter to the rank of Lieutenant, the City first suggested that there might be some language in the Consent Decree limiting promotions of firefighters charged with racial or sexual harassment. No such general prohibition is contained in the Consent Decree, nor has such a rationale ever been used to block

the promotions of numerous white members of the Department charged with racial or sexual harassment. In contrast to its refusal to promote this firefighter, the Department has promoted a Caucasian to Captain after he was suspended for two days based on charges of racial harassment when he was a lieutenant and promoted another Caucasian to Battalion Chief soon after he was convicted of dereliction of duties with regard to the EEO policies of the SFFD.

The Department also suggested that pending charges of falsification of reports and making false statements in an investigative interview prevented it from promoting the firefighter. On September 21, 1992, Chief Medina filed such charges with the Fire Commission. The charges are based on incidents which occurred more than four and a half years ago. However, the City did not mention the possibility of bringing formal charges against the firefighter until after he became eligible for promotion.

The Departments treatment of this firefighter contrasts with its treatment of white members who have made false statements or submitted false reports. For example, the summary report on the investigation of the swastika incident concluded that "[a] serious problem ... is the inadequacy of the inspection procedures followed by many Battalion Chiefs ... numerous inspection reports [in Battalion District #1] were falsified." However, none of the Battalion Chiefs were disciplined at all, despite the Department's <u>own</u> conclusion that they submitted false reports.

Another example of the different treatment accorded white firefighters is the Department's failure to pursue perjury charges against a predominantly Caucasian group of firefighters whose statements during the investigative interviews and the hearing before the Commission concerning charges of harassment against Captain Wayne Mitchell provide a reasonable basis to consider such action.

The administrative handling of this matter must also be contrasted to the Department's response to the insubordinate behavior of a Caucasian firefighter toward a company officer, one of the newly promoted African-American Lieutenants. The Monitor is informed and believes that the administration was made aware of an extraordinary, serious, and public act of insubordination witnessed by at least one other officer and that appropriate action was not taken. The City has failed to produce documents necessary for further investigation.

The Monitor was contacted recently by an African-American firefighter concerning the Department's failure to respond to harassment as a rule violation, the most recent incident occurring July 12, 1992. In commenting upon some preserves that had been made by the African-American, a Caucasian member of the Department said, "I didn't care for them; anyway, you can probably make a better watermelon preserve or barbecue sauce." The African-American has received no response from the Department to his request for information about resulting disciplinary action. He is informed and believes that the offending firefighter was only asked to see a counselor. Again, the City's

failure to produce documents has precluded further investigation.

The pervasiveness of the failure of chief officers at all levels to respond appropriately to rule violations was called to the attention of the Department by Chief Demmons by memorandum dated January 23, 1992. (Attached as Exhibit 2.)

E. DEFENDANTS HAVE FRUSTRATED EFFORTS TO ENFORCE THE RESIDENCY REQUIREMENT OF THE CONSENT DECREE

Under the supervision of Chief Robert Demmons, the members of the Investigative Services Bureau have functioned as a model of fair and consistent application of standards consistent with Consent Decree requirements in the very sensitive area of background checks and resulting recommendations as to qualifications to enter the Department. If every aspect of Consent Decree implementation were approached with the same professionalism as exemplified by the members of the Investigative Services Bureau, the content of this Recommendation to the Court would be quite different. The reality is that Defendants have frustrated the efforts of the Bureau to ensure compliance with the Consent Decree.

By letter dated October 16, 1992, the City finally responded to an inquiry commenced in early 1992 concerning its enforcement of the residency requirement of the Consent Decree. Having thrown the resources of the City Attorney's Office into an effort to prove that the Caucasian son of a Chief Officer in the Department met the residency requirement at the time he was accepted into the Department -- after the candidate failed to establish proof of residency -- the City's letter of explanation

reveals that the City rejected the recommendation of the Bureau without sufficient proof of residency. The City's letter shows that it ignored evidence of non-residency and responded to glaring evidentiary problems only because of prodding by counsel to Plaintiffs. At one point during this saga, the City even represented that it had evidence of residency which it now admits never existed.

After spending approximately 10 months to justify the Department's actions, the City's response still fails to show a fair and consistent application of qualification requirements. Specifically, by letter of August 31, 1992, counsel for Plaintiffs pointed out that submission of a relative's vehicle registration as proof of residency, as was done by the candidate, would normally disqualify a candidate. The Department's now rather voluminous response of October 16 fails completely to respond to this evidence. Other documents attached to the October 16 explanation also contradict the Department's position. Those documents show that the candidate's permanent address was not in San Francisco during the requisite period of residency.

The City's claim that Chief Medina has developed a new policy is based upon nothing more than a recitation of the existing guidelines which the Investigative Services Bureau has been trying to enforce despite the undermining actions of Defendants.

F. FAILURE TO CONSULT WITH OR OTHERWISE RESPOND APPROPRIATELY AND IN A TIMELY MANNER TO PLAINTIFFS' COUNSEL AND TO THE MONITOR

In addition to the foregoing, there are numerous other

instances in which the City has failed to consult with or otherwise respond appropriately and in a timely manner to plaintiffs' counsel and to the Monitor.

1. Failure to Produce Documents Relevant to Allegations of Discrimination or Harassment

The City has failed to respond to the Monitor's request for the production of all documents relevant to reports of unusual occurrences or alleged rule violations involving claims of discrimination or harassment on the basis of race or sex. By letter dated April 13, 1992, the Monitor requested these documents. The Monitor continued to orally remind the City of her request and on September 1, 1992, the City's counsel told the Monitor's assistant that the documents would be sent within a week. To date, six months after the request, the Monitor has still not received any of the requested documents.

2. Bilingual Needs Assessment Survey

Appendix B of the Consent Decree requires that the parties "meet and discuss the feasibility of conducting a needs assessment study to determine locations and positions in the SFFD where designated bilingual positions would serve the purpose of increasing public safety." This was to be done within twelve months of the execution of the Consent Decree. Plaintiffs have continually brought up the issue from the outset of implementation of the Consent Decree. However, the department to date has not submitted a proposal for review. During the Consent Decree Compliance conference of December 12, 1990, the Chief of Department advised Plaintiffs to contact the Affirmative Action Coordinator to set up discussions. In August of 1992, over a

year and a half later, Plaintiffs again inquired as to the status of the bilingual needs assessment survey. In September of 1992, the City responded that research was being done and that a response would be forthcoming. As of today, Plaintiffs still have not received a copy of the City's proposal to conduct the required survey.

3. Candidate A Matter

During the first week of the 85th class of fire college, a Caucasian woman resigned and was replaced by an African-American male even though another white woman, Candidate A, was eligible and had allegedly been informed that she would be admitted if a woman were to resign during the first week. On July 21, 1992, Plaintiffs inquired in writing to the City regarding this apparent departure from past practices of replacing H-2 candidates who resign from fire college during the first week with candidates of the same gender and race/ethnicity. The City responded on August 21, 1992, that there were not enough instances of H-2 replacements during the first week of fire college since the 75th class, to constitute a past practice.

Plaintiffs pursued this issue via written correspondence to the City on August 6, 1992 and during a meeting with Art Greenberg on August 12, 1992. The Monitor then received a letter sent by Denise Hulett to Art Greenberg dated August 20, 1992, clarifying that Plaintiffs were referring to the period starting from when the fire college class list is assembled through approximately the first week of class. Plaintiffs pursued their inquiry by letter dated August 28, 1992. On September 1, 1992,

the Monitor's assistant contacted Art Greenberg inquiring as to the status of this issue. Mr. Greenberg responded that the Department was still in the process of obtaining the proper documentation to review the issue. On October 2, 1992, the City sent Plaintiffs the requested information regarding H-2 replacements in fire college. The issue was resolved on October 9, 1992 via a letter by Denise Hulett to Art Greenberg confirming that Candidate A would be admitted to the next fire college class and would not be required to take that PAT again. This issue took approximately two and a half months and the constant vigilance of Plaintiffs in order to be resolved.

4. Candidate B Matter

On August 17, 1992, Plaintiffs requested that Candidate B, a minority H-2 candidate who was terminated from fire college, be admitted to the next class. Candidate B alleges that he was treated less favorably than Caucasian male candidates which in turn had an adverse impact on his ability to perform. The department responded on August 20, 1992, by assigning an Assistant Chief and Battalion Chief to investigate the complaint. When the Monitor's assistant inquired as to the status of this issue on September 1, 1992, counsel for the City responded that the investigation was being handed over to the Advisory Review Committee. On September 4, 1992, Plaintiffs informed the City that the instructor being charged had improperly called Candidate B at his home to discuss the EEO complaint. This concern was also reportedly referred to the Review Committee. As of October 16, 1992, two months since the issue was raised, Plaintiffs have

not received a response from the City regarding this issue.

5. Physical Abilities Test Modifications

During the Consent Decree Compliance conference of December, 12, 1990, the City confirmed its prior decision to consider modifying the PAT and began conducting meetings with testing experts. It wasn't until June 18, 1992, approximately two years later, that the City Attorney informed Plaintiffs and the Monitor that the City was ready to implement certain modifications to the PAT. The City never notified the Department of Justice of the proposed PAT revisions.

Plaintiffs' counsel repeatedly requested information upon which the City's experts relied in deciding to revise the PAT. Despite representations by the City that the report would be given to Plaintiffs' counsel, it was never produced. Having not received this information, on August 20, 1992, Plaintiffs wrote to the Monitor requesting that she order the City to provide a report explaining what the cut off scores would be or the basis for which a decision was made to alter the PAT. On August 21, 1992, three of the four proposed revisions to the PAT were withdrawn by the City without explanation. On September 16, 1992 and again on September 29, Plaintiffs requested information from the City regarding the development of a PAT training program. The City responded on October 6, 1992 with an overview of the program which had already begun on September 22, 1992.

6. Fire Station Modifications

In July of 1991, Plaintiffs brought to the attention of the Monitor complaints from women firefighters regarding inadequate

privacy accommodations. After numerous meetings and a motion for contempt, the Department formed a committee including women firefighters to devise and implement improved interim measures to accommodate privacy in the fire houses. In May 1992, Plaintiffs agreed on a short-term plan and a long-term plan to improve privacy in the bathrooms and changing areas. In September 1992, the Department advised the Monitor's assistant that as part of the short-term plan some storage rooms had been designated as women's changing areas and extra bathrooms had been designated as women's bathrooms in those stations where they are available. Also there are currently four stations that have women's bathrooms constructed. However, as of September 9, 1992, the curtains that were to be put in the locker rooms to afford privacy while changing in all stations that do not have separate bathrooms or changing areas (the majority of stations), have not been installed.

7. Candidate C Matter

On September 4, 1992, Plaintiffs' counsel asked for confirmation that a minority firefighter who would have been in the June 15, 1992 class had there not been a dispute over his medical examination, be admitted to the January 1993 class now that the dispute has been resolved. To date, Plaintiffs have not received an adequate response to their request.

8. Candidate D Matter

Candidate D, a minority female, was terminated in November of 1991 for medical reasons. Plaintiffs' counsel requested that a neutral doctor agreed upon by both Plaintiffs and the City

examine the candidate and that his/her decision be binding. In March of 1992, the Monitor set a briefing schedule for both parties on the jurisdictional issue. Plaintiffs submitted their brief on June 15, 1992, however the City missed their deadline without explanation and subsequently never filed a brief or responded to the issue. In late June, Plaintiffs' counsel contacted the City's counsel by telephone to inquire why the City had failed to comply with the Monitor's briefing schedule. The City's counsel subsequently, on July 10, submitted a counter-proposal to Plaintiffs' settlement proposal of early 1992. After almost a year since the candidate's termination, this issue is currently unresolved.

9. Inquiries Concerning the Residency Requirement

By letters dated July 20, August 3, August 17 and September 10, 1992 to the Monitor, and by letters dated September 11 and October 8, 1992, to the City's counsel, Plaintiffs' counsel sought a response to issues concerning the inequitable enforcement of the residency requirements. On October 8, 1992, counsel was informed that a response would be received by October 9, 1992. The City's response to the long-standing inquiry about enforcement of the residency requirement is dated October 16, 1992 and still fails to respond to critical issues.

10. Inquiries Concerning Assignment Practices

By letter dated September 21, 1992, counsel for Plaintiffs requested information regarding the Department's detail [special daily assignment] procedures. That written request was followed by a telephone request on October 2, 1992. As of October 15,

1992, the City had not responded.

11. Inappropriate Denial of Access to Documents

On September 21, 1992, counsel for Plaintiffs requested a copy of the Physical Abilities Test video to be shown by the Department to firefighter candidates. On October 6, 1992, plaintiffs' counsel was informed that the Department would not comply with the request because the video would not be released to "outside" individuals or organizations.

G. THE LACK OF SUBSTANCE OF THE DEPARTMENT'S PLAN

Defendants' management plan submitted to the Court on October 15, 1992 misrepresents its reconfiguration of the Department's organizational chart. (Compare Exh. 1, page 26 chart with Exh. 3, page 2 chart.) It is difficult to comprehend how the plan could "re-assign" the position of Director of Human Relations which does not now exist; nevertheless Defendants' reorganization diagram indicate a reassignment of that position and also indicates a reassignment of the Fire Services Exam Unit. The plan is conspicuous in its failure to acknowledge the significant reassignment of the Chief, Management Services Division from a position of reporting directly to the Chief of Department to the inferior position of reporting to a Deputy Chief. Compare the chart of the organization currently in effect together with the accompanying letter from former Chief Postel with the chart submitted by Defendants in support of their plan. Defendants have failed to offer any explanation for this organizational demotion of the Management Services Division which

is inconsistent with Defendants' rhetoric of compliance and the rational offered to justify much of the new plan.

PLAN 1.

On August 24, 1992, without consulting prior members of the Commission, the former Chief of Department, or the only Chief Officer in administration with extensive knowledge of Consent Decree implementation, Chief Joseph Medina submitted to the Monitor and plaintiffs' counsel a management plan consisting of 5 pages purportedly responding to the 16th Report and the remainder advancing the Department's interests in reducing daily staff levels and deactivating units. (Attached as Exhibit 4.) The plan made no reference to and appeared to be completely uninformed by management studies and recommendations previously made concerning the Department's organization and management needs, including information available from extensive work for the Department conducted by the management development division of the City's own Civil Service Commission staff. No explanation -- other than vague references to the always useful "budgetary constraints" -- has been offered for failure to adopt the plan upon which the City relied in obtaining declaratory relief from this Court in December 1991.

The August 24 plan consists of the following proposals:

1. Reduce the number of fire suppression division headquarters from the current three to two division headquarters.

2. Modify the department's management structure based on written policy which shall including (sic) personnel accountability as a component.

3. Clarify the chain-of-command.

4. Require the Human Relations Director to submit a written report monthly to the Chief of Department regarding human relations issues, consent decree issues, EEO investigation and other EEO issues concurrently with those reports required by the Chief of Management Services. Purportedly, this "special reporting function" was to ensure "direct access to, and accountability from the department command staff and avoid unnecessary delays involving urgent matters."

5. Placing the Fire Service Examination Unit in a special staff position reporting directly to the Deputy Chief of Administration.

6. Implement a career development program.

7. Assign two H-30 Captains to the Division of Training as In-Service training officers.

8. Put forth a Charter change which would allow the Chief of Department to choose Deputy Chiefs from the rank of Battalion Chief as well as the current practice of choosing from the rank of Assistant Chief.

9. Put forth a Charter change that would allow the fire Commission to demote officers found guilty of any offense or violation of the Rules and Regulations of the Department.

10. Request the Fire Services Exam Unit to schedule an examination for the position of H-50 Assistant Chief.

11. Enhancing Accountability

a. The A-B-C working shift system.
b. Implement a unit vacancy transfer system
c. Cease the practice of rotating Battalion Chiefs every year.

12. Reduction of daily staffing

PLAN TWO

In a subsequent version dated September 14, 1992, the only substantive change in the proposal consists of the Department's departure from its plans for the "Human Relations Director" to report directly to the Chief of Department. The plan now proposed that the position report directly to the Deputy Chief of Operations while the Chief, Management Services Division would

report to the Deputy Chief of Administration, clear on the other side of the organizational chart.

Defendants provided counsel to Plaintiffs and the Monitor with a copy of Plan Two on September 15 and requested that comments be presented prior to the September 18 Fire Commission meeting. Counsel to Plaintiffs and the Monitor presented written comments on September 17, 1992. See discussion of comments below.

PLAN THREE

Another revision of the plan is dated September 21, 1992 but does not contain any substantive departures from Plan Two. Plan Three does not contain any response to the comments from Plaintiffs or the Monitor.

PLAN FOUR

Another plan is dated October 1, 1992. This plan elaborates on the "Human Relations Director" position. Having been informed by the Monitor that the proposal with respect to the Exam Unit contradicted prior representations by the City concerning supervision of that Unit by the Civil Service Commission, this version now modifies its proposal to provide that the unit "report" its activities to Management Services Division monthly, but that the unit will "work closely with the Chief of Management Services through the Deputy Chief Administration". The plan is vague as to its modification of the rotation of battalion chief assignments.

PLAN FIVE

Dated October 13, 1992, this proposal illuminates and

modifies the proposals with respect to the Human Relations Director, Management Services Division, and Fire Exam Unit. This version serves to illuminate the bizarre configuration of duties and responsibilities and lines of reporting.

FINAL PLAN

Advised on October 14, 1992 of the Monitor's intention to recommend that the City be held in contempt of Court, the plan dated October 15 remains essentially the same as the initial proposal and now modifies the "Human Relations Director" job to focus upon providing training to all members of the Department, directing the informal mediation process, and making recommendations concerning programs or policies which will help ensure compliance with regulations or laws. (See Exhibit 1.) The position is proposed to report directly to the Deputy Chief of Operations.

The proposal clarifies that Management Services Division, meanwhile, will supervise the EEO complaint and investigative process, recruitment and retention, the Personnel Center and Investigative Services Bureau, function as "liaison" with the Exam Unit (although the Unit is to report to the Deputy Chief, Administration), and be responsible for areas such as the print shop/stationery.

RESPONSES TO THE PROPOSED PLAN

The Department provided Plaintiffs' counsel with Plan Two on the evening of September 15, 1992 and requested a response prior to a Fire Commission meeting on September 18th. This opportunity

for comment within an extremely limited period is essentially the only consultation with Plaintiffs counsel engaged in by the Department. Plaintiffs objections (attached as Exhibit 5) fall in three categories:

1. Far from making the fundamental changes required, the Department's plan largely preserves the status quo. The most notable proposed change is the plan to significantly reduce the responsibilities of the office currently held by the highest-ranking African-American officer, Chief Robert Demmons who supervises the Management Services Division.[1]

2. The plan is extremely vague and fails to provide sufficient details of the proposed changes.

3. The plan will reduce job and employment opportunities for minority and women firefighters.

Plaintiffs charge that the plan fails to remedy the organizational and management barriers to compliance, fails to make changes to increase accountability, reduces to the detriment of compliance the responsibilities assigned to the Chief, Management Services, and decreases accountability. The City's Director of Training in the Management Development Division of the Civil Service Commission staff supports these charges.

By letter dated September 17, the Monitor provided the Department with seven points of preliminary concerns about the

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[1]Frank Scales, an African-American who holds the Civil Service rank of Lieutenant, also serves at the pleasure of the Chief of Department in the exempt position of Assistant Deputy Chief II. Although the Department has claimed this exempt position facilitates implementation of the Consent Decree, the duties of this exempt position now apparently include stuffing envelopes and have no apparent responsibilities for Consent Decree implementation.

proposed reorganization and management plan. The Monitor also discussed her concerns with at least two members of the Fire Commission. Defendants rejected the repeated recommendation of the Monitor that the management plan be developed in consultation with the Management Development Division of the Civil Service Commission. In view of the substantial differences between the parties concerning the City's management proposal, the Monitor recommended that the Fire Commission form a committee including Plaintiffs' representatives to resolve areas of dispute. However, that proposal was rejected by Defendants. When Plaintiffs' counsel asked on October 14 for a copy of the plan being submitted to the Commission on October 15, she was informed that the City's counsel did not have the plan. Defendants delivered a copy of the plan to Plaintiffs' counsel the afternoon of October 15.

The City's own expert in management development, the Director of Training in the Management Development Division of the Civil Service Commission staff was not engaged by the Commission or the Chief in development of the management proposal despite her extensive experience with the Fire Department.[2] The

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[2] The Management Development Division of the Civil Service Commission staff has substantial experience with the Fire Department from involvement solicited by former Chief Postel and Chief Robert Demmons:

a. conducted "Supervisor as Coach" management training for 249 officers in the Department;

b. presented a series of one-day executive seminars to all the senior officers of the Department;

c. functioned as management consultant to former Chief Postel and worked with him to develop a reorganization and management plan;

d. held a series of meetings with Assistant Chiefs and Battalion Chiefs to follow-up on "Supervisor as Coach" training and

comments of this knowledgeable expert, which will be discussed below, confirm the detrimental impact of Defendants' proposal upon implementation of the Consent Decree.

III. JUSTIFICATIONS FOR THE REMEDY SOUGHT

A. DEFENDANTS HAVE ACTED IN A MANNER WHICH COMPELS THE CONCLUSION THAT THEY ARE EITHER UNWILLING OR UNABLE TO IMPLEMENT THE CONSENT DECREE

The Court has emphasized the primacy of eradicating discriminatory conditions of employment within the San Francisco Fire Department by orders, memoranda and statements to the parties beginning with the memorandum approving entry of the Consent Decree. Nevertheless, the Monitor and counsel for Plaintiffs must continuously remind Defendants of their obligations in this regard as Defendants choose, instead, to recite hiring and promotion data to support claims of compliance. Defendants' management proposal promises only continuance of the failure to maintain a workplace free of harassment and discrimination. The result of Defendants' failure to take appropriate action can be seen in the above described examples of conditions of employment within the San Francisco Fire Department.

The foregoing facts show a pattern of disregard for Consent

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to get their sponsorship for a new one-day workshop on communication skills and teambuilding for firefighters;

e. facilitated monthly meetings of the Department's Standard Operating Procedures Committee since its formation in Fall 1990, and helped this group work on the new Performance Appraisal Program and Department-wide Standard Operating Procedures;

f. conducted focus group meetings with 65 firefighters at 10 different stations.

Decree compliance including the consistent failure to communicate with those in the Department demonstrably committed to compliance efforts, failure to continue the cooperative efforts with Plaintiffs to facilitate compliance and avoid confrontations, the refusal to make any reasonable effort to maintain institutional continuity during a period of time critical to successful implementation of the Consent Decree, and a dilatoriness with respect to remedying problems or responding to inquiries essential for monitoring of compliance. Defendants' actions have been detrimental to the ability to monitor compliance and to the success of the Decree. The all-purpose "budget crisis" cannot be trotted out to justify the several major areas of noncompliance and the eleven specific examples of failure to consult with or otherwise respond appropriately.

The facts show that the Monitor and counsel for Plaintiffs have given defendants ample opportunity to respond appropriately in areas of non-compliance such as the continuing harassment of minority and female members of the Department, the failure to provide appropriate training, enforcement of the residency requirement, and the administrative response to allegations of rule violations. The very process in which Defendants engaged in producing their management proposal is incredible in view of their professed goal of compliance with and commitment to the Consent Decree.

We are now past the mid-point of the duration of the Consent Decree. Defendants cannot be permitted to continue to frustrate implementation with protestations of their "110%" commitment to

the Consent Decree in the face of this outrageous record of their behavior that perpetuates the very problems the Consent Decree aspires to eliminate. Minority and female members of the Department are entitled to a workplace free of discrimination and harassment.

B. THE CITY'S MANAGEMENT PLAN IS DETRIMENTAL TO IMPLEMENTATION OF THE CONSENT DECREE

The Department's proposal creates, without explanation, the new civilian position "Human Relations Director" and strips from the Chief, Management Services Division significant areas of responsibility concerning Consent Decree compliance. Further, the proposal undermines the major objective of enhancing officer accountability and marginalizes Consent Decree related matters by placing significant responsibilities in a civilian position outside the chain of command. Notably, the plan's only proposal to utilize civilian personnel would diminish rather than enhance officer accountability and Consent Decree implementation. It is not insignificant that the only Chief Officer stripped of responsibilities in this "plan" is also the only Chief Officer who has demonstrated both extraordinary administrative and management skills together with a commitment to effective implementation of the Consent Decree. The responsibilities stripped away from this Chief Officer are critical to effective implementation of the Decree. The Department has offered several and contradictory reasons for this proposal, none of which are credible.

The Director of Training, Management Development Division

reports that the Department suffers from an adversarial relationship between management at headquarters and the officers and firefighters in the field. The overwhelming feedback from training programs has focused upon poor communication from headquarters, a serious lack of accountability, strong resentment about how the consent decree is implemented, and major criticism of prior training conducted by headquarters staff and outside consultants on sexual harassment.

On the positive side, the Director found that Management Services, the Department's division which is charged with implementing major parts of the Consent Decree, has been making important strides under the leadership of Chief Robert Demmons. The SOP Committee, founded and chaired by Chief Demmons, has successfully implemented much needed standardization in several areas and thereby reduced the number of complaints from the field. Comprised of about 38 uniformed members of the Department representing a diversity in terms of rank, length of service, race, ethnicity and point of view, the SOP Committee is considered by the Director as an excellent model for how the entire Department could work together in the post-consent decree era. The Director characterized members of the SOP Committee as representative of the feelings of the majority of the Department's members who accept the fact of the Consent Decree and want to move in the positive directions of overcoming differences and solving the Department's problems.

However, the Director finds that the Department's proposed plan could well have the effect of undermining the progress that

has been made in removing obstacles to Consent Decree implementation. Specifically, the Director points to the plan's proposal to move key elements of Management Services to other parts of the organization while holding Management Services accountable for accomplishing goals related to these dispersed functions. The Director is specifically critical of the Department's plan to spread personnel functions across divisions. There is a Human Relations Director reporting to the Deputy Chief of Operations; the Fire Services Exam Unit reporting to the Deputy Chief of Administration, and Management Services reporting separately to the Deputy Chief of Administration. In the opinion of the Director, this lack of cohesiveness seriously weakens the personnel function and will create communication problems among these various groups.

The Director is convinced that if the Department's new management team is going to be successful in implementing the Consent Decree, the top management team of the Department must develop and communicate a clear, cohesive philosophy of management throughout the Department and the reorganization must include consolidation of all personnel functions under a new position of Deputy Chief of Personnel and Administration. This Chief Officer would then work closely with the General Manager of Personnel and Division Managers in the Civil Service Department on all personnel issues and the Director would continue working on the overall management training and development strategy of the Department.

Noting that the Division of Training plays a major role in

carrying out the Consent Decree, the Director finds that it needs to be in closer communication with other personnel functions in the Department. Bringing the Department of Training into Personnel and Administration, with a dotted line to the Deputy Chief of Operations, would reflect the appropriate organizational position and would strengthen communications and coordination.

The Director notes that the SOP Committee has brought together the chairs of all the other standing committees of the Department to enable them to talk to one another about what they are working on, eliminate duplication of effort and share resources. She recommends that this coordination of all the committees needs to be formalized and strengthened by making it an official function of Management Services Division.

Finally, the Director notes that while the Department's plan targets February 1993 as the completion date for the Performance Appraisal and Standard Operating Procedures projects, these efforts are being completed entirely on a voluntary basis without any support or resources from the administration. In her opinion, it is impossible to complete either project in the timeframe described in the proposal given this lack of administrative support.

C. THE CITY'S JUSTIFICATIONS FOR ITS MANAGEMENT PLAN PROPOSALS ARE NOT CREDIBLE AND ARE PRESENTED AS SUBTERFUGE FOR PERPETUATING DISCRIMINATION AND HARASSMENT

Despite the City's generous use of "Consent Decree language" in explaining its proposal, its justifications are not credible. The facts reveal, instead, an intent to retreat in compliance and

to use this Consent Decree process to achieve other objectives. The City's proposal perpetuates discrimination and harassment. The re-positioning of the Fire Service Exam Unit is the most flagrant and transparent example of this criticism.

The Department first proposed that the Fire Service Exam Unit report directly to the Deputy Chief, Administration to "increase accountability and provide needed direct communications with the command staff regarding exam issues and unit administration." Proposal dated August 1, 1992. The proposal remained in this form until modified in the September 21 proposal to provide, in pertinent part: "This [reporting directly to Deputy Chief, Administration] will increase unit accountability and provide direct input to Chief of Department and Deputy Chiefs regarding exam issues and Fire Exam Unit administration".

The Department's proposal was elaborated upon by the Chief of Department during a meeting with the Monitor on September 28, 1992. It was intended that the Deputy Chief would have "input into the type of questions", would see that the exam process was carried out properly, and would exert "some type of control. He could say 'you're not doing that properly' and stop it". This control by the Deputy Chief was needed, the Chief of Department explained, because the Test Development Committee "hasn't given us people with the expertise needed." The Chief complained that there had been very little "input" by upper level management in the last exam.

The Monitor explained to the Chief of Department her understanding from representations made by the City Attorney's

office that all supervisory functions with respect to the Exam Unit resided with the Civil Service Commission supervisory staff. The Exam Unit manager, supported by his Civil Service Commission staff superiors had vigorously resisted efforts in 1991 and 1992 by the Chief, Management Services Division and former Chief Postel to impose greater and appropriate administrative accountability upon the Unit. (See attached Exhibit 3., memorandum from Chief Postel.) This supervision did not require the revelation of any information relevant to the content of proposed examinations or any other confidential information.

The efforts of the Chief, Management Services Division were defeated. The City represented to the Monitor that the Exam Unit was not administratively under the supervision of the Fire Department; that all supervisory powers resided in the Civil Service Commission; and that the sole administrative function of the person to whom the Exam Unit technically "reported" in the Fire Department's organizational chart was to facilitate the Unit's use of Department personnel. The City contended that the Chief, Management Services Division might be perceived as influencing improperly exam content or might be perceived as having access to exam content. The City stated clearly that the reporting function of the Exam Unit within the Fire Department did not encompass the Department's supervision of exam content or administration. Ray Wong, supervisor of the Civil Service Commission's Exam Unit, also reportedly articulated concerns about "trusting" the Chief, Management Services Division because he was a former president of the Black Firefighters Association

and expressed a concern that Chief Demmons would reveal to that Association confidential information about exam content. The Monitor is not aware of any similar question of "trust" arising from the association of the Chief of Department and his two Deputies with Local 798, an organization that has vigorously opposed the Consent Decree.

The Department's management plan proposed placing in the Deputy Chief, Administration not only the supervisory power sought earlier by the Chief, Management Services Division, but also the more intrusive supervisory power over exam content and the processes of exam development and administration.

The Department's proposal of October 1, then, acknowledges that the Exam Unit reports to and is accountable to the General Manager, Civil Service Commission, but nevertheless provides that it should "report its activities to Management Services Division and work closely with Chief, Management Services Division <u>through</u> the Deputy Chief, Administration". There is no explanation for this peculiar configuration of "supervision", especially in view of the fact that the stated reason for placing the Unit under the Deputy Chief cannot be accomplished. The proposal of October 15 is even more bizarre in placing in the Deputy Chief the authority to designate a senior officer to coordinate scheduling of Department personnel to participate in the job analysis and scoring key development process. These were precisely the only two functions allocated to the Chief, Management Services Division according to the City in 1991 and earlier in 1992. Although the Department's proposal also places in Management

Services a "monitoring" function; the assignment of all substantive responsibilities to the Deputy Chief eliminates any meaning from the proposal that the Exam Unit "will work closely with Management through the Deputy Chief".

The City's proposal fails to explain why the Deputy Chief should assume the functions that have resided in Management Services Division, especially since that Division reports directly to the Chief of Department. (See Exhibit 3, page 2.) This failure of explanation is significant in view of the efforts by Management Services to impose administrative accountability upon the Exam Unit, efforts that were vigorously and effectively rebuffed by the Civil Service Commission staff. Significantly, the Chief of Department represented to the Monitor on September 28, 1992, that the intrusive and substantive supervision by the Deputy Chief had been discussed with Civil Service Commission staff and that the Department's proposal was accepted. Nevertheless, the Department revised its proposal after September 28 in a manner that accomplishes the objective of removing the Exam Unit from the supervision of Management Services Division, but makes no sense at all in view of the limited supervisory authority of the Department.

The Department's justifications for its proposal are simply not credible. Rather, the objective accomplished by the Department is to strip the highest ranking African-American officer of responsibilities and authority which appropriately reside within his administrative position. The incredible nature of the Department's explanations and the process by which this

proposal evolved support the conclusion that the Department was motivated by considerations of race, the officer's efforts to implement the Consent Decree, and other interests not compatible with Consent Decree compliance.

The City's justifications for the creation of a Human Relations Director position and the removal of related functions from the supervision of Management Services Division reflect subterfuge for perpetuating the ineffective supervision that has permitted discriminatory conditions of employment. Only after meeting with the Monitor on September 28 during which he agreed that the position as then described should report to the Chief Management Services did the Chief of Department subsequently develop a different job description for this Director position in an attempt to justify its reporting to the Deputy Chief. No where in the Department's proposal is there a justification for the peculiar configuration of a clearly management services function of training reporting to the Deputy Chief in charge of field operations while the Management Services Division reports to a different Deputy Chief.

The Department's representation that placing this function under the Deputy Chief, Operations "will send a clear message . . . of the seriousness with which the Chief views human relations issues" is a travesty. Extensive study and discussion within the Department since 1987 make it abundantly clear that only by having officers subsume "human relations" within their job responsibilities will the conditions of employment within the Department change in the manner required for Consent Decree

compliance. Further, the Department's major problems must be addressed by serious improvement in management ability and not by expending resources on marginalized "human relations".

The Chief of Department has even acknowledged the low status of civilians within the Fire Department. The low status of civilians was illuminated by the refusal of the Department's Affirmative Action Coordinator to continue to conduct training unless Chief Officers participated in the sessions as "co-trainers". Even as the City uses the language of "sending a message", the Chief of Department knows the message he is really sending to Department members is that "human relations" is a concern outside the chain of command and that an African-American Chief Officer's authority affecting implementation of the Consent Decree must be diminished.

With shifting job descriptions, changing lines of reporting, and multiple, incredible justifications for its proposal, at least one of the City's real objectives remains clear throughout the various permutations: to diminish the authority of the Chief, Management Services Division who is the highest ranking African-American within the Department and who is the only Chief Officer at headquarters with a record of effective implementation of the Consent Decree. It is telling that the only "reorganization" effected by the Department's proposal is to strip this officer of responsibilities.

Further evidence of the Department's intention to perpetuate the discriminatory conditions of employment which the Consent Decree is intended to eradicate is revealed in its treatment of

the Standard Operating Procedures Committee which is chaired by Chief Robert Demmons, who is also Chief, Management Services Division. Established by former Chief Postel, the SOP Committee has utilized the services of the Management Development staff of the Civil Services Commission to facilitate a unique, positive, problem-solving effort involving Department members from the spectrum of "political" views, racial and ethnic diversity, and ranks within the Department. The substantive issues assigned to this Committee for recommendations to the Chief of Department included such crucial issues and career development, standard operating procedures on the fire ground, and officer and firefighter evaluation and accountability. The potential of this Committee to effectuate the institutional change required to permit substantial compliance with the Consent Decree cannot be overstated. The current Chief of Department has never met with the Committee chairperson for the purpose of discussing the Committee's work.

Finally, the City's proposal taken as a whole does little to advance implementation of the Consent Decree and does much to impede its successful implementation. The peculiar process in which the City engaged to produce this plan ensured such a result.

IV. CONCLUSION

For the foregoing reasons, the City and individual defendants John Ertola, Laurence Griffin, Thomas Ng, Charles Morrow, Norma Molinar, and Joseph Medina should be held in contempt of court and appropriate relief in the nature of placing

the Fire Department in a receivership with respect to implementation of the Consent Decree should be ordered. A separate recommendation describing the remedial "receivership" is forthcoming.

Dated: October 23, 1992

Barbara Y. Phillips

PROOF OF SERVICE

I, the undersigned, certify and declare that I am a citizen of the United States, over the age of 18 years, employed in the City and County of San Francisco, California, and not a party to the within action. My business address is 3747 Twentieth Street, San Francisco, California. On October 23, 1992, I served a true copy of the attached:

MONITOR'S 18TH REPORT RECOMMENDING THAT DEFENDANTS BE HELD IN CONTEMPT OF COURT

on the parties in said action by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, in the United States mail in San Francisco, California, addressed as follows:

SEE ATTACHED LIST

I declare under penalty of perjury that the foregoing is true and correct. Executed this 23rd day of October, 1992, at San Francisco, California.

Michael Harris
San Francisco Lawyers'
Committee for Urban Affairs
301 Mission Street, Suite 400
San Francisco, CA 94105

Judith Kurtz
Maria Blanco
Equal Rights Advocates
1663 Mission Street, Suite 550
San Francisco, CA 94103

William McNeill
Employment Law Center
1663 Mission Street, 4th Floor
San Francisco, CA 94103

Denise Hulett
MALDEF
182 Second Street, 2nd Floor
San Francisco, CA 94105

Mari Mayeda
Saperstein, Seligman, Mayeda
& Larkin
1300 Clay Street, 11th Floor
Oakland, CA 94612

George Riley
Special Assistant to
the City Attorney
Office of the City Attorney
206 City Hall
San Francisco, CA 94102

Art Greenberg
Deputy City Attorney
Office of the City Attorney
206 City Hall
San Francisco, CA 94102

Duane Reno
Davis, Reno and Courtney
90 New Montgomery, Suite 909
San Francisco, CA 94105

Mike Selmi
Richard Ugelow
U.S. Department of Justice
Employment Litigation Section
PO Box 65968
Washington, D.C. 20035-5968

INTERESTED PARTIES

Ray Conners
Secretary
San Francisco Fire Commission
260 Golden Gate Avenue
San Francisco, CA 94102

Chief Joseph Medina
San Francisco Fire Department
260 Golden Gate Avenue
San Francisco, CA 94102

Battalion Chief Robert Demmons
Management Services Division
San Francisco Fire Department
260 Golden Gate Avenue
San Francisco, CA 94102

James Outley
Black Firefighters' Association
4938 Third Street
San Francisco, CA 94124

John Cercos
Los Bomberos
4457 Bodega Avenue
Petaluma, CA 94952

Ernest F. Li
Asian Firefighters Association
728 Faxon Avenue
San Francisco, CA 94112

EXHIBIT 1

SAN FRANCISCO FIRE DEPARTMENT

MANAGEMENT PLAN

October 15, 1992

Joseph A. Medina

Chief of Department

TABLE OF CONTENTS

APPENDICES

SAN FRANCISCO FIRE DEPARTMENT
MANAGEMENT PLAN Oct 15, 1992

I. OBJECTIVES:

The Management Plan is designed to improve the quality of the services provided by the San Francisco Fire Department, fulfill the goals and spirit of the Consent Decree, and create an enduring climate of professionalism and respect for diversity. The Department must strive to accomplish these objectives during a severe fiscal crisis that has tested the Department's ability to meet increasing demands for emergency services.

II. THE EXISTING SITUATION:

The current structure and operating procedures of the San Francisco Fire Department were largely developed over fifty years ago. As discussed in Appendix A, many units have been deactivated during the past five decades. These changes occurred, however, without a corresponding redefinition of the duties and responsibilities of upper and middle management.

The current evolution of the Department's management structure has created certain barriers to effective coordination and accountability. Many functions are fragmented among several layers of administration, often making it difficult to track and resolve problems.

In her Sixteenth Report, the Court Monitor raised concerns about the impact of the Department's structure on its ability to comply with the goals and spirit of the Consent Decree. The Monitor directed the Department to submit a "restructuring proposal" to address several issues, including the modification of work schedules, the redefinition of duties for specified ranks and the creation of a system to hold officers fully accountable for their duties as administrators and managers.

Earlier proposals envisioned the creation of new, upper level management positions and supporting staffs. The City's dire fiscal crisis, however, precludes such an approach. The Department must now improve its management structure and, at the same time, reduce overall expenditures.

III. CONCLUSIONS:

The Department proposes to implement the following program changes to better define and increase accountability, target specific training needs and improve training, enhance career opportunities, and continue the integration of all ranks. As part of this plan, the Department proposes to undertake, with the Court's permission, certain temporary reductions in daily staffing in order to decrease overtime expenditures.

The Management Plan endeavors to meet the needs of the Department and similarly remedy the concerns of the Monitor which she has addressed in her Sixteenth Report.

IV. PROPOSALS:

1. DIVISION REDUCTION:

The Department proposes to consolidate its three fire suppression division headquarters to two divisions headquarters. This will create substantial budget savings without loss of service to the public.

The City's third fire suppression Division Headquarters was created in 1941 as an emergency response to World War II, and was not deactivated after the end of hostilities.

The Department, with the Monitor's permission, has instituted a temporary consolidation of three division headquarters into two division headquarters. The Department has created new measures to improve reporting and enhance the accountability of assistant and battalion chiefs. These measure are described in Appendix B.

2. MODIFICATION OF MANAGEMENT STRUCTURE:

The Department is in the process of modifying the current management structure in the following ways:

-Standard Operating Procedures: Implement a system of Standard Operating Procedures (SOP) for all operational functions. SOPs will establish or prescribe methods to be followed routinely for the performance of designated operations or designated situations. The Department's SOP committee is currently developing the SOP program.

Establishing Standard Operating Procedures will standardize operations, provide for consistent training and enhance accountability.

The Department intends to implemented the SOPs by February 1993.

-Performance Appraisals: Develop a fair objective performance appraisal system for uniform members. Past performance appraisal systems have been considered ambiguous, subjective and not job related. Implementation of a new system will be used for employee evaluation, accountability, counseling and career development. The Department's Performance Evaluation Committee, supervised by the Chief of Management Services, has been working on this program for several months. The Department plans to implement the new evaluation program early 1993. The Department will offer plaintiff intervenors and other employee organizations the opportunity to review the new program

prior to implementation. In addition, the Department will utilize the Civil Service Commission performance appraisal system for civilian employees.

The Department intends to implement the new performance appraisal system by February 1993.

-Administrative Policy Modification: Examine policies and procedures to validate their currency, appropriateness and applicability and eliminate those no longer necessary. Determine the lowest decision making level for recurring decisions and delegate that authority to the appropriate level within the Department. The delegation of authority will free upper level managers to fulfill their roles and permit those close to the issues to make the decisions regarding those issues.

The first of policy modifications will implemented in November 1992.

-Develop a Discipline Handbook: The Department will develop a Discipline Handbook which will ensure that all employees, uniform and civilian, know what is expected of them; how they will be advised of their failure to meet expectations; inform them that failure to meet expectations will be dealt with uniformly and fairly.

The Discipline Handbook will address the deficiencies in the current discipline system, especially at the company officer level. The Handbook will address in detail steps of progressive discipline, forms to be used, sources of authority to discipline for both uniform and civilian employees, and specifically how to determine appropriate discipline. The Handbook will inform officers and managers how to manage cases involving oral warnings, written instructions, written warnings, suspensions and termination/dismissals.

The Discipline Handbook will clarify the authority of officers and managers, standardize the administration of discipline for certain offenses, provide for consistent application of discipline, and enhance accountability of officers in applying discipline.

The Discipline Handbook will be provided to plaintiff-intervenors and employee organizations for their review prior to adoption.

3. CHAIN OF COMMAND:

A clearer chain of command is necessary to hold officers accountable for their actions, therefore the Department will clarify the chain-of-command structure. For the Fire Department, a clear chain of command is necessary to hold officers accountable for their duties.

Department functions will be grouped into six clear areas of responsibility under the supervision and management of a senior officer responsible to the Chief of Department through a Deputy Chief; thus, providing for effective management, decision making, staff coordination and accountability. The six functional areas include Operations (two field Divisions), Airport Division, Division of Training, Division of Fire Prevention and Public Safety, Division of Support Services, and Division of Management Services (See Appendix "E").

4. HUMAN RELATIONS DIRECTOR:

The Chief has determined that a critical need of the Department is to provide high quality human resource training to all members of the Department. In order for this training to be properly and promptly developed, presented, evaluated, and refined, a single qualified individual must be vested with responsibility. This training shall be targeted towards the specific needs of the Department, and shall include such topics such as maintaining a harassment free work environment, and other human relations issues which concern the maintenance of a productive and diverse work force.

The Human Relations Director shall develop, conduct or facilitate this training. In addition the Human Relations Director shall update classes and course content, maintain rosters and schedule courses. In addition the Human Relations Director shall function as liaison with the Civil Service Training Unit and other City agencies.

The Human Relations Director shall also advise the Chief of Department concerning human resources and related training issues. The Human Relations Director shall identify current, pending or new federal, state or local legislation, court decisions, and administrative determinations that could affect human resource training needs within the Department. Examples of issues currently emerging as a result of federal legislation or court decisions for which the Director of Human Relations would identify training needs include, for example, the American with Disabilities Act and the prevention of sexual harassment within the work place.

The Human Relations Director shall also recommend new programs or policies, or modification of existing human resources programs or policies, which will help ensure the department's compliance with regulations or laws. The Human Relations Director, in accoradance with the terms of the Consent Decree, shall direct the Department's informal mediation process, which is designed to informally resolve complaints or problems concerning discrimination and harassment.

In order to ensure that members of the Department participate fully in human relations training, evaluations, surveys, and other related activities, the Human Relations Director will report directly to the Deputy Chief of Operations. This direct reporting line to the second highest officer in the department will send a clear message to Department members of the seriousness with which the Chief views human relations issues. To keep the Deputy Chief of Operations informed of training activities, the Human Relations Director shall submit a written monthly report. A copy of this report shall also be submitted to the Chief of Management Services.

The Human Relations Director shall perform such other duties as the Chief of Department may direct.

5. MANAGEMENT SERVICES DIVISION:

The Chief of Management Services shall be responsible for three distinct and fundamental components of Department operations:

1) The Chief of Management Services shall continue to supervise the EEO complaint and the investigative process and the Department's recruitment and retention program.

2) The Chief of Management Services shall continue to supervise the Personnel Center and the Investigative Services Bureau.

3) The Chief of Management Services shall be responsible for; Illness-Injury Prevention Program, Safety Committee, Vehicle Accident Review Board, Community Relations Outreach, Annual Report publication, Print Shop/Stationary, and function as liaison with Civil Service Fire Examination Unit.

EEO functions and Recruitment and Retention activities remain a top priority with the Department, and the Chief will work closely with the Chief of Management Services to further improve these programs. In particular, the Chief has identified a need to refocus and enhance recruitment activities to further improve the recruitment of qualified minority and female candidates. Retention activities are also especially important for the Department to increase the number of females, especially minority female firefighters.

The Chief of Management Services shall perform such other duties as the Chief of Department may direct.

6. FIRE SERVICE EXAMINATION UNIT:

The Fire Service Examination Unit functions as the liaison unit between the Department and the Civil Service Commission's Recruitment and Selection Division.

Under the general direction of the Division Manager, Recruitment and Selection Division, the Fire Services Examination Unit is responsible for the administration of the entry level and promotional selection programs for sworn ranks of the Fire Department under the terms and conditions of the Consent Decree.

The Manager of the Fire Services Examination Unit shall be the Civil Service Commission representative to the Test Development Committee. This committee is comprised of staff, test experts, and departmental subject matter experts designated by the Deputy Chief of Administration in consultation with the Chief of Management Services. The Deputy Chief of Administration and the Chief of Management Services shall be the Department's representative to the Test Development Committee.

The Deputy Chief of Administration shall designate a senior officer to coordinate the scheduling of departmental personnel to participate in the job analysis and scoring key development processes. The Deputy Chief of Administartion shall monitor the administration of examination components and other FSEU activities.

The FSEU shall develop a report of monthly activities for the Chief of Management Services. The reports shall be presented, as appropriate, to the Chief of Department and the Fire Commission. The FSEU shall work closely with the Chief of Management Services through the Deputy Chief of Administration.

7. CAREER DEVELOPMENT PROGRAM:

The San Francisco Fire Department has adopted the California State Fire Marshal's Career Development Program as the standard for career development.

In addition to satisfying the basic standards found in National Fire Protection Association Standard 1021, Fire Officer Qualifications, a Fire Officer in the state of California also has been required to show a higher level of competency in various specialty areas.

To date, over 280 San Francisco Fire Officers and perspective Fire Officers, both male and female, representing the diverse racial composition of the Department have been or are now participating in the most comprehensive Fire Officer certification program in the nation.

The Fire Officer certification program is supported by a curriculum package entailing eight regional college accredited academy courses; Fire Prevention 1A, Fire Prevention 1B, Fire Investigation 1, Fire Command 1A, Fire Command 1B, Fire Management (Supervision), Fire Instructor 1A and Fire Instructor 1B (See Appendix C).

The State Fire Marshal program provides several benefits by providing a program that:

a. Begins at the H-2 Firefighter level and progresses continually onward through the firefighter's career.

b. Can be entered at any time.

c. Is designed to provide the department with well trained and qualified persons to perform duties at the next higher rank.

8. CAREER DEVELOPMENT OFFICER:

A Career Development Officer position will be designated.

This officer will act much like a counsellor in a college setting. The Career Development Officer (CDO) will have one-on-one contact with those firefighters enrolled in the Career Development Program.

The CDO will serve as a personal advisor and regularly monitor the progress of each participant. This advisory role will be especially useful to female and minority members of the Department who have traditionally lacked mentors and may not have always received adequate guidance from Department officers.

It is envisioned that the department's Director of Training, in cooperation with the Career Development Officer, will be given the responsibility to establish the career development program using the basic outline below:

a. H-2 Firefighters will be certified as Firefighter I,II, using the California State Fire Marshal certification criteria.

b. Training for chief officers, company officers, inspectors, and fire investigators based on the California State Fire Marshal's Career development program. The Career Development Program is a three tiered professional program approved by the State Board of Fire Services for the California Fire Service.

9. IN-SERVICE TRAINING OFFICERS:

The Department shall assign two H-30 Captains to the Division of Training as In-Service training officers.

Presently the in-service training section is staffed by one H-39 Supervising Captain and one Temp/Lieutenant functioning as the Department Emergency Medical Coordinator.

The two Captains will be assigned projects related to in-service training, including monitoring of field training activities, pump operations, driver training, and officer training/development.

To date, one light duty H-30 Captain and one light-duty H-20 Lieutenant have been assigned and are monitoring and evaluating new officers, consistency in company drill content and standardization, and field training of probationary firefighter.

10. DEPUTY CHIEF SELECTION:

Recommend a Charter amendment which would allow the Chief of Department to choose Deputy Chiefs from the rank of Assistant Chief and Battalion Chief. This would allow the Chief to choose from a larger pool of candidates to select the most skilled and qualified officers. Most notably, this would also permit more minority and female officers to be considered for the position of Deputy Chief.

11. H-50 ASSISTANT CHIEF'S EXAMINATION:

Request the Fire Services Examination Unit schedule an examination for the position of H-50 Assistant Chief.

Civil Service testing would ensure the technical competency, leadership, and administrative skills necessary for these upper level managers. Furthermore, an evaluation component will ensure that the candidate is committed to affirmative action goals and other components of department policy based on the candidates objective empirical past performance.

Selection will be based on structured oral presentations among others, and the use of the rule-of-three, if necessary, to select the most qualified candidate. Examination raters will be selected based on their technical and managerial experience, their commitment to affirmative action goals, leadership traits and racial/gender composition representative of the examination candidate pool. Using the above criteria, raters shall be selected by the Fire Service Examination Unit with approval of the Chief of Department.

The characteristics of class, class distinguishing features and examples of duties for the rank of assistant chief have been modified to meet the requirements of the Consent Decree (See Appendix "C").

V. ENHANCING ACCOUNTABILITY:

Each of the eleven proposals, discussed above, is a component of the Departments plan to ensure that members of the Department are properly trained, provided opportunities for advancement, and held accountable for their actions. The following section describes proposals that the Department will implement to directly enhance accountability.

-THE A-B-C WORK SCHEDULE:

The most significant management change has been the adoption of the A-B-C work shift. This change has led to increased accountability and productivity of San Francisco Firefighters and Officers.

This system was put in place by the administration on July 1, 1992, after a year of labor negotiations with Firefighters Local 798, which culminated in a four year Memorandum of Understanding.

The A-B-C work system aligns officers and firefighters into the same shift on a perpetual schedule. This system allows master planning in regards to training and administrative programs affecting field personal; allows for a mechanism of meaningful personnel evaluations based on consistent observation by superiors; and addresses Consent Decree issues regarding personal accountability and management.

-COMPANY OFFICER VACANCIES:

Immediately after the 1993 Battalion Chief's examination is given and appointments made, a unit vacancy transfer system will be implemented where all Captain and Lieutenant positions are filled, except for designated officer training positions.

This process will fill all company officer positions in suppression companies during the current vacancy cycle, thus stabilizing the command structure, ensuring that a company will be supervised on regular basis by a regularly assigned officer, increasing unit/personnel accountability and avoiding constant supervisory flux as is now the case.

Training positions will be designated in which newly appointed officers will be assigned, evaluated and monitored by an individual Battalion Chief. These positions will be in active companies were diversified work environments will be experienced by the new officer.

-BATTALION CHIEF ASSIGNMENTS:

The current practice of automatic three-year Battalion Chief rotations does not serve the interests of the Department, it's members, or the public. Due to the influence of seniority on initial Battalion Chief assignments, the current system of automatic rotations hinders the ability of minority officers, who often have less seniority within the Department, to gain varied operational experiences. For some Battalion Chief assignments, three years is often an insufficient time for Battalion Chiefs to learn the essential characteristics of their districts.

To ensure that the battalion districts are properly served, and that members of the Department, especially minority and female members, are provided opportunities for varied assignments and responsibilities, the Chief will designate Battalion Chief assignments.

Among the advantages of having the Chief designate the assignments instead of the automatic rotation system are: Exposure of chief officers to varying operational and administrative environments; enhancement of special skills, such as hazardous material specialist certification, which would be consideration for assignment to a battalion district which includes extraordinary hazardous material targets; enhancement of public relations ability by exposing chief officers to the many multi-cultural/diverse neighborhoods and citizens of San Francisco, which will better prepare them to interact effectively, and with confidence, with the citizens and other city officials responsible for service within the particular neighborhood; and enhancement of disaster preparedness by exposure of chief officers to the city's major fire/rescue potential target areas. Additionally, Chief Officers will become familiar with the various Neighborhood Emergency Response Teams and their procedures.

The Chief of Department will use resumes and personnel interviews to determine assignments based on needs of Department, including affirmative action considerations, and the special skills and talents needed within each of the districts. Therefore, the length of Battalion Chief assignments will vary and may be more or less frequently than three years.

To further ensure accountability among Battalion Chiefs, Assistant Chiefs will be required to conduct annual evaluations of Battalion Chiefs. These evaluations will then be considered by the Chief to help him make proper decisions concerning assignments and specific training needs. The Chief and Deputy Chiefs will also annually review Battalion Chief evaluations to determine general in-service training needs or modifications.

VI. EFFECTS OF REDUCED STAFFING ON PERMANENT AND TEMPORARY OFFICERS AS OF SEPTEMBER 21, 1992

PHASE 1: Reduced daily staffing from 296 to 294 per day.

METHOD: Reduce the number of Division Headquarters from 3 to 2 by closing one Division Headquarters.

PERSONNEL IMPACT:

-Loss of one Assistant Chief per day reduces LWLP details by 30 per month (3%).

-One UFO LWLP Battalion Chief returns to captain but will continue to receive daily details to LWLP Battalion Chief.

-Loss of one aide per day reduces LWLP details by 30 per month (3%).

-No effect on chief's aides LWLP UFO positions or on LWLP daily details. At present every firefighter who wants to work LWLP as a chief's aide is doing so. No change is projected.

PHASE 2: Reduce staffing from 294 to 284 per day.

METHOD: Close one engine company and one truck company as staffing permits. Reduce chief's aides by one when staffing permits.

PERSONNEL IMPACT:

-Loss of two officer details (lieutenants and captains) per day reduces LWLP details by 60 per month (6%). Loss of one aide per day, on some days, will reduce LWLP details by a maximum of 30 per month (3%).

-No effect on LWLP UFO positions. Minimal effect on LWLP daily details. At present every firefighter who wants to work as a LWLP chief's aide is doing so. No change is projected.

VII. UNIT CLOSURE PROCEDURES:

The following units are eligible to be deactivated for a limited period of time on a rotational basis due to fiscal limitations.

Engine Companies: 1,2,3,5,6,8,9,10,11,13,14,18,19

Truck Companies: 1,2,3,5,6,7,8,10,13,14,18,19

NOTE:

At no time will a fire station be closed. Eligible units are assigned to multiple unit stations, with only one unit deactivated per fire station. In the case of an engine company (medical 1st responder/early defibrillation unit) all medical equipment will be transferred to the truck company, thus retaining the medical capability of the station. Rescue Companies and Fireboat Companies are not effected.

VIII. MANAGEMENT OF THE PLAN:

The Deputy Chief of Administration shall be responsible to the Chief of Department for implementation and any modification this plan.

DEACTIVATED FIREFIGHTING UNITS AND ADMINISTRATIVE CHANGES

The following firefighting units have been deactivated or placed into a reserve status since 1957.

-1957 thru 1962: 15 Tank Wagons units deactivated with conversion to triple combination pumpers.

-1967-1968: Deactivation of 4 Hose Tenders, 3 Water Towers, 1 Fuel Unit, 1 Coffee Unit, 1 Foam Unit.

-1970-1971: In order to implement the reduction in work week hours from 51.7 to 49.7, the following units were deactivated: 1 Battalion Headquarters, 3 Engine Companies, 1 Salvage Company.

-1971-1972: In order to implement the reduction in work week hours from 49.7 to 48.7, the following units were deactivated or placed in reserve status: 1 Searchlight Unit, 1 Water Tower, 3 Salvage Companies.

-1974-1975: Three Attack Hose Tender placed in reserve status.

-1979-1980: Deactivation of two Engine Companies and one Truck Company.

-1980-1981: Deactivation of one Truck Company.

The following is an overview of upper-management administrative organizational changes which have occurred since 1941.

-October 1941: Creation of a 3rd Fire Suppression Division due to possible outbreak of war and accompanying threat.

-Pre-1955: The department administration consisted of the following:

Chief of Department
Deputy Chief of Department
Secretary to Chief of Department
Division of Fire Prevention and Investigation

-1957-1958: The upper-management administrative positions of the Division of Training and Division of Special Services were created (The Division of Special Services is now the Division of Support Services).

-July 1961: Secretary to the Chief position deactivated. Division of Administration created.

-July 1972: Position of Secretary to Chief reactivated. Division of Administration was re-classified to Bureau of Administration under control of the Secretary to Chief of Department.

-July 1972: The Airport Division was activated. The Assistant Chief's position previously located in the Division of Administration was transferred to the Airport Division.

-February 1974: Division of Public Education and Internal Control (now Management Services) was created.

-October 1980: Assistant Deputy Chief of Administration created by de-activating the Secretary to Chief position. Functions of the Bureau of Administration were assigned to this position. Management responsibility for the Division of Management Services and Support Services were assigned to this position.

-April 1988: Investigative Services Bureau created under the Deputy Chief of Administration (now under Management Services).

-November 1988: Assistant Deputy Chief II position created. Function of Management Services assigned to Assistant Deputy Chief II.

DIVISION DEACTIVATION PLAN

Restructure Operational Division Boundaries: Reduce the number of division headquarters from three to two; Division 3 (South), Division 2 (North).

Restructured division boundaries are: Beginning at intersection of San Francisco Bay and Market Street and following the center lines of Market Street, west to Portola Drive to Woodside Drive to Dewey Blvd. to Taravel Street (extended) to the Pacific Ocean.

Establish Division Headquarters: Deactivate Station 13 as Division Headquarters #1. Station 7 to remain as Division Headquarters #3 (South), and Station 5 remains as Division Headquarters #2 (North). Division of Airports remains unchanged.

Realigned Battalion Boundaries by Division:

Division 3 (South)	Division 2 (North)
Battalion 2	Battalion 1
Battalion 3	Battalion 4
Battalion 6	Battalion 5
Battalion 9	Battalion 7
Battalion 10	Battalion 8

Division Chief's Response: Division Chief's response will be as per current assignment rules based on revised dispatch priority.

Tactical Communications Procedure: Communications procedures remain unchanged.

Span of Control:

Present Span of Control		Proposed Span of Control	
Div 1	Three Battalions	Div 3 (South)	5 Battalions
Div 2	Four Battalions	Div 2 (North)	5 Battalions
Div 3	Three Battalions		

As is apparent, the span of control due to the proposed division headquarters reorganization increases Division 3 (South) from three battalions to five battalions, and Division 2 (North) from, four to five battalions. These

proposed span of control modifications are well within the recognized fire service control levels with five or six subordinate reporting units (or no more than seven) generally considered to be the upper limit (Ref: Management in the Fire Service, P.258; Managing Fire Services, P.78).

The number and type of units within the battalion remains the same. No span of control changes will be made at battalion level.

Number and Type of Units Under Proposed Plan:

Division 3 (South)	Division 2 (North)
21 Fire Stations	20 Fire Stations
5 Battalion HQ	5 Battalion HQ
21 Engine Co	20 Engine Co
8 Truck Co	10 Truck Co
1 Rescue Co	1 Rescue Co
	1 In-Service Fireboat

Accountability: The following methods will be utilized to improving aspects of management responsibility, accountability, and communications between division and battalion level chief officers.

1. Formal Conferences: Held daily by Deputy Chief of Operations with Division Chiefs at Department Headquarters.

2. Formal Conference: Held by Division Chiefs with subordinate Battalion Chiefs at Division Headquarters. A formal agenda shall be used for these conferences and include:

   -EEO Issues
   -Consent Decree Issues
   -Safety Issues
   -Discipline Issues
   -Training Issues
   -Maintenance Issues
   -Current Concerns/Immediate Action Items
   -Other Non-Agenda Items

A formal record of conferences shall be kept at each division headquarters. The record shall be reviewed by the Deputy Chief of Operations weekly. The substance of the conference shall be recorded, to include decisions and/or agreements reached and who takes what action on each item. A proposed solution to problems shall be considered and recorded if applicable. Suspense dates for action or closure shall be established (See forms as part of this appendix).

3. Battalion Chiefs shall meet daily with company officers within their battalions. The same agenda items when possible will be used to format the meeting. The Battalion Chief's meeting with company officers will be recorded. The completed record of conferences shall kept at battalion headquarters and reviewed weekly by an Assistant Chief.

4. The Deputy Chief of Operations will regularly participate in the Division Chief's conference with Battalion Chiefs. The Deputy Chief's participation will be based on a rotating schedule so that he may observe the greatest number of different participants.

5. The Chief of Department and Deputy Chief of Administration may attend the Division Chief's Conferences schedule permitting.

SAN FRANCISCO FIRE DEPARTMENT
DIVISION CHIEF'S CONFERENCE RECORD FORM

Division:_____ Date:_____ Time:_____

Participants:

Division Chief_____

Battalion Chief_____Batt. Dist_____

Battalion Chief_____Batt. Dist_____

Battalion Chief_____Batt. Dist_____

Battalion Chief_____Batt. Dist_____

Battalion Chief_____Batt. Dist_____

Other:_____

_____

_____

Recorder:_____

Time Conference Adjourned:_____

Date Record reviewed by DC Operations:_____

AGENDA ITEMS

A. DISCUSSION:

B: PROBLEM(S) (If Any):

C: SOLUTION(S):

D: RECOMMENDATION(S):

E: Responsible Officer(s) _____

Resolution Date: _____

Other Suspense Dates: _____

Forward To: _____

BATTALION CHIEF'S COMPANY OFFICER MEETING RECORD

Battalion District: _____ Date _____

Battalion Chief: _____

Company Officers:

_____ Rank: _____ Co: _____ Time: _____

_____ Rank: _____ Co: _____ Time: _____

_____ Rank: _____ Co: _____ Time: _____

_____ Rank: _____ Co: _____ Time: _____

_____ Rank: _____ Co: _____ Time: _____

_____ Rank: _____ Co: _____ Time: _____

_____ Rank: _____ Co: _____ Time: _____

_____ Rank: _____ Co: _____ Time: _____

_____ Rank: _____ Co: _____ Time: _____

Recorder: _____

Date Record Reviewed by Division: _____

MEETING AGENDA ITEMS

A. DISCUSSION:

B: PROBLEM(S) (If Any):

C: SOLUTION(S):

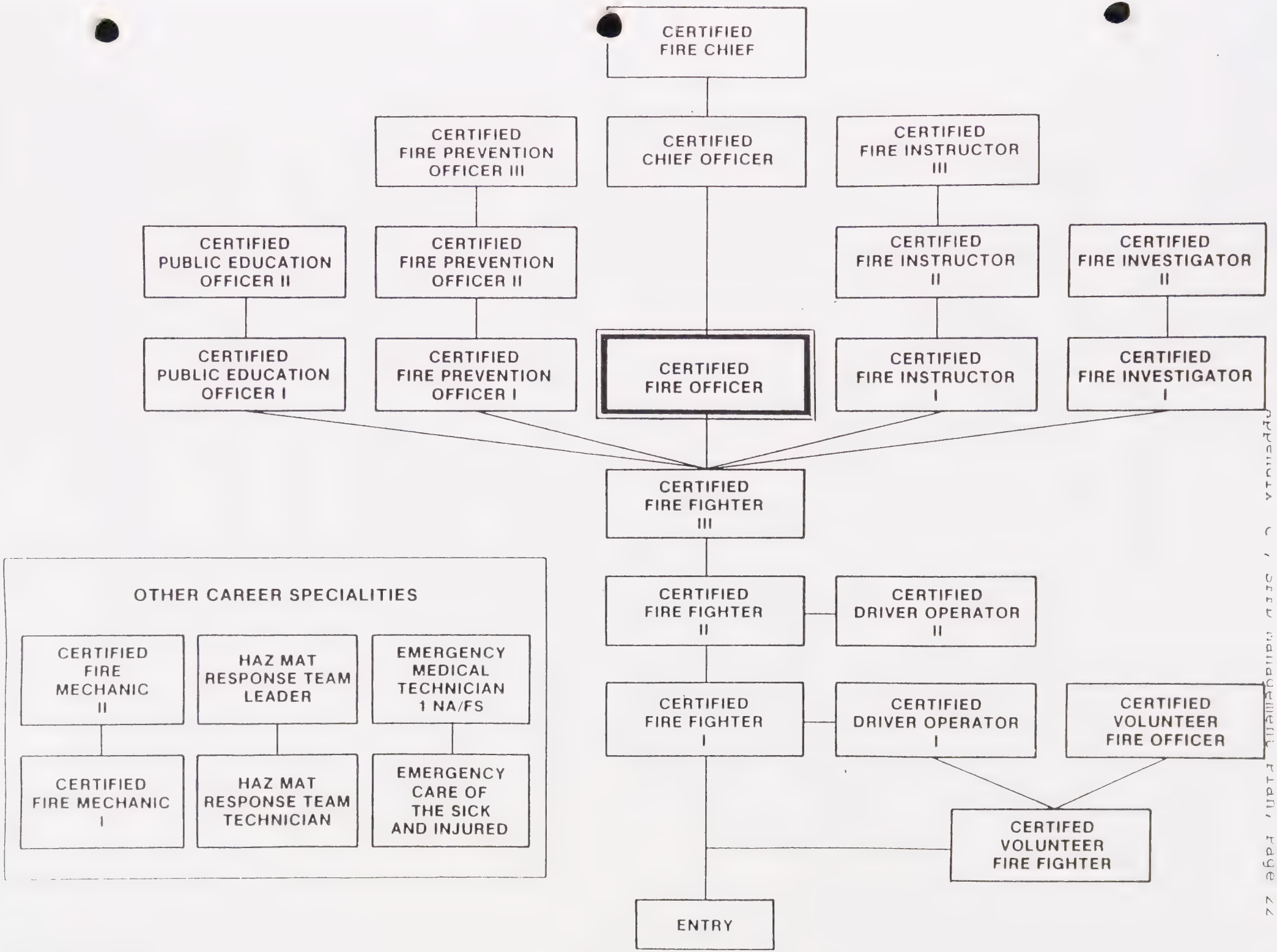
D: RECOMMENDATIONS(S):

E: Responsible Officer(s): _____

Resolution Date: _____

Other Suspense Dates: _____

Forward To: _____


CERTIFIED FIRE CHIEF
CERTIFIED CHIEF OFFICER
CERTIFIED FIRE PREVENTION OFFICER III
CERTIFIED FIRE INSTRUCTOR III
CERTIFIED PUBLIC EDUCATION OFFICER II
CERTIFIED FIRE PREVENTION OFFICER II
CERTIFIED FIRE INSTRUCTOR II
CERTIFIED FIRE INVESTIGATOR II
CERTIFIED PUBLIC EDUCATION OFFICER I
CERTIFIED FIRE PREVENTION OFFICER I
CERTIFIED FIRE OFFICER
CERTIFIED FIRE INSTRUCTOR I
CERTIFIED FIRE INVESTIGATOR I
CERTIFIED FIRE FIGHTER III
CERTIFIED FIRE FIGHTER II
CERTIFIED DRIVER OPERATOR II
CERTIFIED FIRE FIGHTER I
CERTIFIED DRIVER OPERATOR I
CERTIFIED VOLUNTEER FIRE OFFICER
CERTIFED VOLUNTEER FIRE FIGHTER
ENTRY
OTHER CAREER SPECIALITIES
CERTIFIED FIRE MECHANIC II
HAZ MAT RESPONSE TEAM LEADER
EMERGENCY MEDICAL TECHNICIAN 1 NA/FS
CERTIFIED FIRE MECHANIC I
HAZ MAT RESPONSE TEAM TECHNICIAN
EMERGENCY CARE OF THE SICK AND INJURED

H-50 ASSISTANT CHIEF CLASSIFICATION SPECIFICATIONS

Characteristics of the Class: Under general direction, has major responsibility for assisting the Chief of Department, or as directed through a Deputy Chief of Department, for accomplishing the mission of the San Francisco Fire Department, through assignment to: (a) a geographical division of the Fire Suppression Service, including the Airport, or (b) the Division of Fire Prevention and Public safety, or (c) the Division of Support Services, or (d) the Division of Training, or (e) the Division of Management Services or (f) other assignment.

Class Distinguishing Features: Positions in this class assigned to Fire Suppression Divisions, the Division of Fire Prevention and the Division of Training report to the Deputy Chief of Operations. Positions in this class assigned to the Division of Support Services and Management Services report to the Assistant Deputy Chief of Administration. All positions in this class are responsible for the administration of assigned divisions, battalions and bureaus as prescribed in departmental Rules and Regulations and in General or Special Orders issued by Chief of Department, conducting disciplinary investigations, EEO investigations, accident investigation, and other inquiries when necessary, inspections, and the preparation of required reports and recommendations.

Examples of Duties: The class specification shall be descriptive of the class and shall not be considered as a restriction on the assignment of duties not specifically listed.

1. Advises the Chief of Department and Deputy Chief of Department and/or Assistant Deputy Chief of Department on overall departmental policies and programs and presents written or oral reports on assigned policies and programs to the Chief of Department, Deputy Chief of Department and/or Assistant Deputy Chief of Department, or to the Fire Commission as directed by the Chief of Department.

2. Responsible and accountable for the enforcement of all rules, regulations and orders of the Department.

3. Responsible and accountable for carrying department policy based on consent decree mandate and the maintenance of a work place free of sexual and racial harassment, and drug/alcohol free.

4. Maintains awareness of critical program developments and problems and advises the Chief of Department, Deputy Chief of Department and/or Assistant Deputy Chief of Department on various options for resolving the problems.

5. Develops and coordinates research and analysis projects designed to improve efficiency and effectiveness of departmental operations.

6. Evaluates significant policies and proposals prior to their consideration by the Chief of Department to assure that the opinions of all involved parties are reflected and that all options are presented.

7. Represents the Chief of Department in official discussions, including dealing with representatives of City Government, City Departments, State and Federal entities, and private enterprise.

8. Represents the Chief of Department at public and private functions to include community groups, dinners, and parades.

9. **Assistant Chief Suppression Specific:**
Supervises the fire suppression and emergency activities of several battalions; manages the training and inspection activities of several battalions; manages the Division of Airports, including emergency response, training and inspection programs; evaluates the effectiveness of fire suppression, fire prevention, emergency medical, and public education programs administered in the Suppression Divisions and recommends appropriate program adjustments to Chief of Department; manages the budget preparation for the assigned Fire Suppression Division and coordinates its fiscal functions.

MANAGEMENT PLAN IMPLEMENTATION TIMELINES

-Administrative Modification	-November 1992
-SOP Implementation	-February 1993
-Performance Appraisals	-February 1993
-Discipline Handbook	-As Soon As Feasible
-Two Division Headquarters Plan	-10 Days After Favorable Court Decision
-Unit Closure	-Immediately After Favorable Court Decision
-Charter Revisions	-As Soon As Feasible
-Select In-Service Trng Captains	-Immediately
-Fill All Co Officer's Vacancies	-After 1993 BC Exam
-H-50 Assistant Chief's Exam	-Request Immediately
-A-B-C Working Schedule	-Implemented
-Career Development Program	-Immediately
-Career Development Officer	-Selection Process Pending
-Battalion Chief Assignments	-After the 1993 BC Exam Appointments

San Francisco Fire Department
Proposed Organization Plan

September 14, 1992

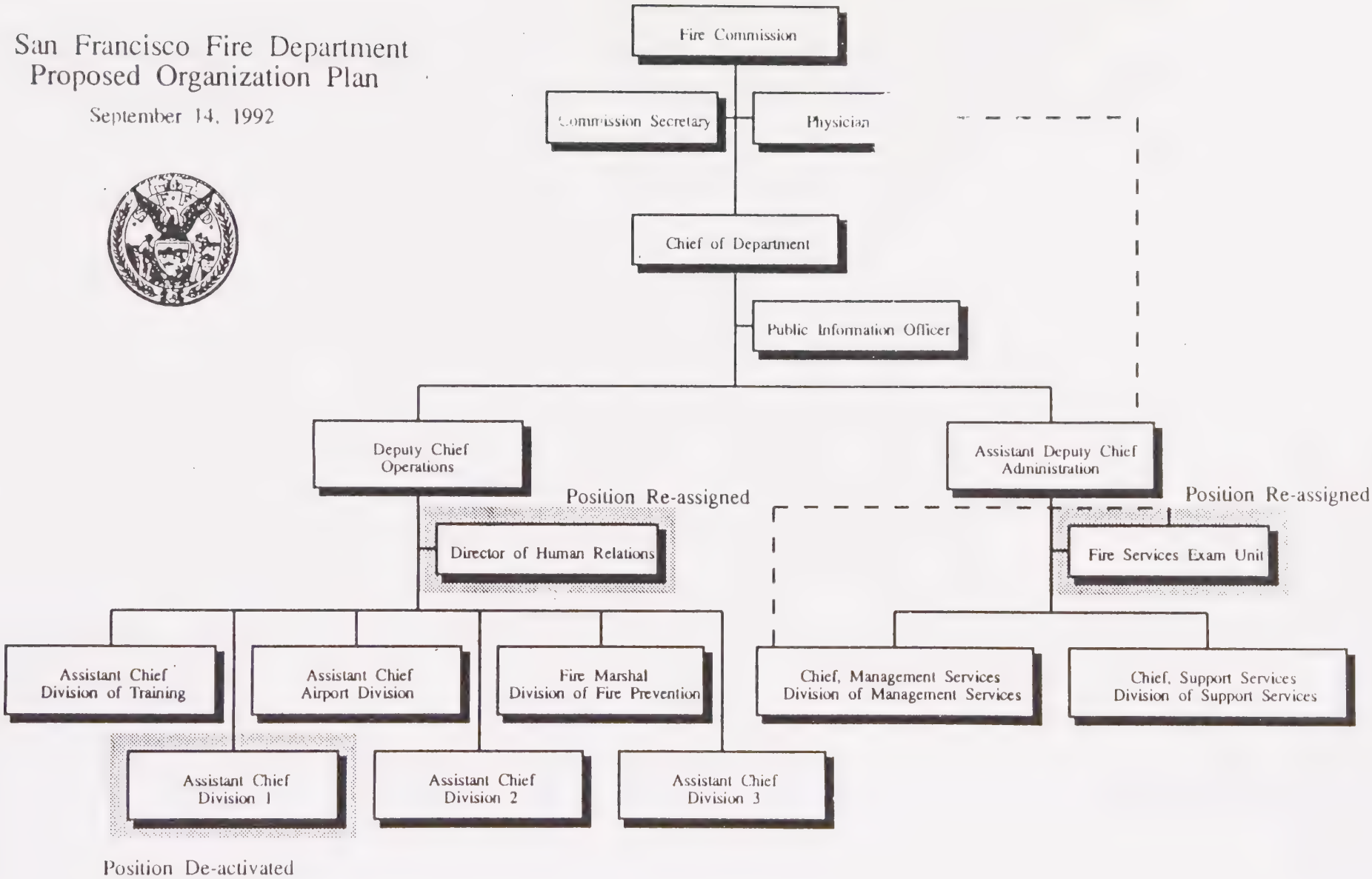


EXHIBIT 2

DIVISION OF
MANAGEMENT SERVICES

CONFIDENTIAL

CONFIDENTIAL

C O N F I D E N T I A L

M E M O R A N D U M

TO: Frederick F. Postel, Chief of Department

FROM: Robert L. Demmons, Battalion Chief, Management Services

DATE: January 23, 1992

RE: Undermining of the Complaint Process

As chief of department, I feel you should be made aware of a very serious situation. Over the past several months, too many similar and related incidences have occurred that work to undermine the EEO Complaint process.

When I accepted the position of Chief of Management Services, I knew that there were many areas within the division that needed work. The primary problem area was the EEO complaint process. Over the next several months, my staff and I worked to revise the entire process. At this time, we are in the last stages of finalizing the process after having received very helpful suggestions from various parties (i.e. city attorney, court monitor, plaintiffs intervenor, ...).

Yet, several situations have occurred that are working to undermine the process. They are listed below:

Filing of Complaints Against the Recent H20 & H30 Promotional Exam

Eleven EEO complaints, concerning racial discrimination, were received in the month of December over the most recent H20 - Lieutenant and H30 - Captain lists. The complainants were all white males. Each complainant hand-delivered his complaint with a fellow complainant. Thus, the complaints were received in pairs or three together.

All these complaints were forwarded to the City Attorney.

Union's Position on the Make-up of the Review Committee

As you are aware, Local 798 has repeatedly questioned the racial makeup of the Review Committee. The Review Committee has been existence for over three years, during which time the union has not questioned its membership. Its purpose was to serve as a checks and balance for the complaint process. As the great majority of chief officers conducting the complaint investigations are white males, the Review Committee's purpose is to ensure that a fair investigation was completed. If the process was not thought to be done in a fair and thorough manner, the Review Committee could direct the investigation to be continued.

Thus, as the protected class members (the members generally filing complaints) are not represented in the ranks of chief officers, they are the sole makeup of the Review Committee. The Review Committee members are held accountable to their respective representative groups (Black Firefighters, Asian Firefighters, Hispanic Firefighters, and Women Firefighters), not Local 798.

Unacceptance and Resistance of EEO Situations as Rule Violations from All Levels of Chief Officers

Chief officers, from all ranks, are claiming the inability to recognize rule violations concerning EEO. Yet, once a rule violation has been shown to have occurred, chief officers feel that to be considered serious and be investigated, the victim of the EEO violation must file a formal complaint.

As chief officers are considered managers in this department, they are responsible for maintaining a hostile-free environment. Thus, if a chief officer becomes aware of a possible rule violation, whether it is concerning an EEO matter or a violation concerning a matter such as reporting late to duty, it is the officer's responsibility to report the incident to the chief of department through the proper chain of command. The chief of department can then decide on how to deal with the violation, and whether it should be investigated.

The EEO complaint process is for individuals who feel they have been discriminated against or harassed based on their sex, race, age, etc. The complainant may or may not have made his/her chief officer aware of the situation. The filing of a formal complaint is an option for the victim of a EEO violation.

The two situations, an EEO rule violation and a formal EEO complaint, are completely separate processes. One could take place without the other, and the two could occur simultaneously.

In a recent situation, there was a rule violation in which a member submitted, in writing, that he had felt he was being harassed by another member based on his race. This case was considered a rule violation, and was assigned to be investigated. At some point during the investigation, the investigating assistant chief told the member that he would have to file a formal complaint for the situation to be considered serious. This was completely inappropriate. As managers in the Department, chief officers are to work to maintain the hostile-free environment. They should not be shrugging off their responsibilities. By advising an alleged victim of harassment to file a complaint, they are showing disregard and a lack of care for their subordinates.

Federal Court Judge Marilyn Hall Patel has all names of chief officers on file. The reason she wanted these names is because she wants to stress that as managers, these officers are responsible for doing their job, all aspects of the job including promoting a hostile-free work environment. Though fire suppression may be the backbone of the Department, as one reaches the ranks of chief, suppression does not always remain the primary job duty. Perhaps these chief officers should be reminded that they can be held in contempt of court for not doing their job.

<u>Continual Direspect and Disregard for Sexual and Racial Harassment and Discrimination Training as Presented by Ms. Viki Macklin</u>

Ms. Macklin has consistently been faced with members showing an unwillingness to accept the policies set forth by the Department concerning racial and sexual discrimination. Most recently, Ms. Macklin held a class for members on the current H20 Lieutenant's list. The focus of the class was to relay to the members their responsibilities in reporting rule violations concerning EEO as well as maintaining a hostile-free work environment. A specific member showed disregard for the subject matter and expressed that if aware he would not attempt to stop a derogatory racial situation from taking place.

The matter was investigated, and the investigation showed that the member may have been misunderstood. This situation demonstrates that this member does not hold his duties as an officer in very high regard when it comes to subject matter outside the realm of fire suppression.

The most recent revision to the complaint process was submitted to the courts. As my name was signed to this document, I take the entire process and the ideology behind it very seriously. The fact that there is a supposed lack of understanding between an EEO violation and a formal EEO complaint causes me great concern.

Once again, as Chief of Department, I want you to be aware of the seriousness of this situation. Your highest levels of management have demonstrated a lack of awareness in their job responsibilities.

I would like to meet with you to discuss how to solve this problem at your earliest convenience.

3077M

EXHIBIT 3

CITY AND COUNTY OF SAN FRANCISCO
SAN FRANCISCO FIRE DEPARTMENT

FREDERICK F. POSTEL, *Chief of Department*
MICHAEL T. FARRELL, *Deputy Chief...Operations*
JOHN F. BOSCACCI, *Deputy Chief...Administration*

260 GOLDEN GATE AVENUE
SAN FRANCISCO, CALIFORNIA, 94102
(415) 861-8000, EXTENSION 281

July 22, 1991

Mr. Alan Wong
Fire Service Examination Unit
44 Gough Street
San Francisco, CA 94103

Dear Mr. Wong:

I am writing this letter to clear up the chain of command and lines of reporting for the Fire Service Examination Unit. There seems to be some confusion regarding the Fire Service person who monitors and coordinates the Fire Service Examination Unit. There has been an interim reorganization and the Fire Service Examination Unit reports directly to Battalion Chief Robert Demmons of Management Services. This chain of command shall be followed at all times unless otherwise authorized by the Chief of Department.

If you or any member of your staff have questions about this, please contact Batt. Chief Demmons. He will set up a meeting and include me to discuss these lines of authority.

Also, I have enclosed for your information an interim reorganization chart that depicts the lines of authority within the Fire Department.

Very truly yours,

Frederick F. Postel
Chief of Department

FFP:go
Enclosure

cc: Deputy Chief Farrell
Deputy Chief Boscacci
Batt. Chief Demmons

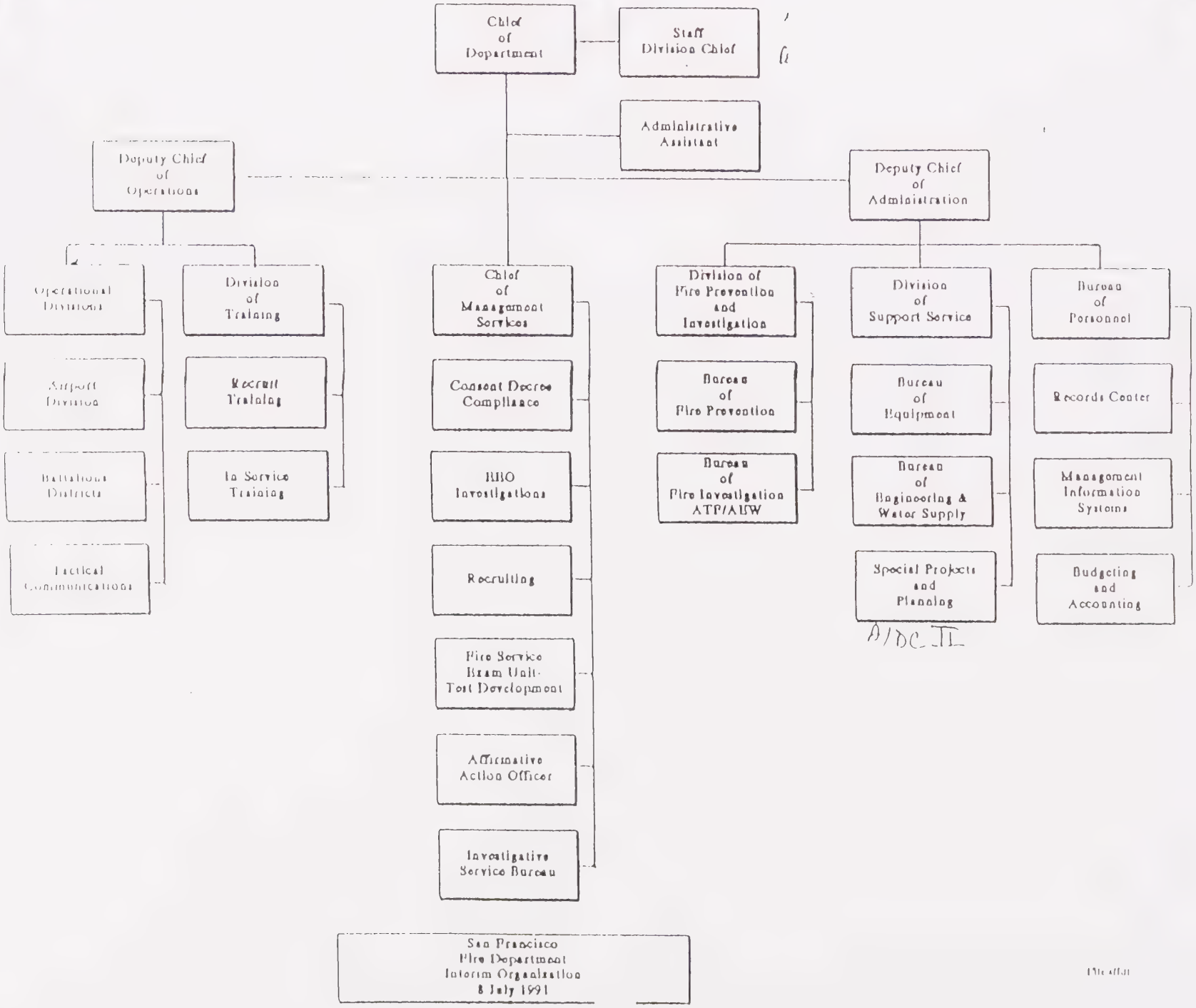

Chief of Department
Staff Division Chief
Administrative Assistant
Deputy Chief of Operations
Deputy Chief of Administration
Operational Divisions
Airport Division
Battalions Districts
Tactical Communications
Division of Training
Recruit Training
In Service Training
Chief of Management Services
Consent Decree Compliance
RBO Investigations
Recruiting
Fire Service Exam Unit-Test Development
Affirmative Action Officer
Investigative Service Bureau
Division of Fire Prevention and Investigation
Bureau of Fire Prevention
Bureau of Fire Investigation ATF/ALW
Division of Support Service
Bureau of Equipment
Bureau of Engineering & Water Supply
Special Projects and Planning
A/DC II
Bureau of Personnel
Records Center
Management Information Systems
Budgeting and Accounting
San Francisco Fire Department Interim Organization 8 July 1991

EXHIBIT 4

SAN FRANCISCO FIRE DEPARTMENT
MANAGEMENT PLAN

OBJECTIVES: Within current budgetary constraints, to increase the administrative effectiveness and to clearly designate responsibility and accountability for department functions by organizationally restructuring several units, causing major modification of policy and/or developing new policy, redefining functions and responsibilities, and implementing management enhancing programs.

FACTS BEARING ON THE EXISTING SITUATION: The existing management structure and/or policies of the department under-utilizes middle and upper management and/or does not address many areas of administrative responsibility. The department has been slow to develop the wide range of planning and support functions needed in effectively deal with contemporary issues/problems. The present organizational scheme does not promote staff coordination or accountability from department officers. Many management functions are fragmented among several organizational layers, thus making tracking of and closure of issues/projects difficult, if not impossible. Additionally, the structure of the fire department has not changed substantially since the 1950's. Many companies and units have been de-activated over the years without a corresponding realignment of middle and upper management ranks.

The change becomes even more a formidable challenge due to the need for the department to carry out such change in an increasingly austere funding environment without diminishing the quality of vital services it provides to the citizens of San Francisco. Accordingly, the department has identified, and will implement the plan described in this document as a strategy which will permit it to strike an appropriate balance. This plan will create a more responsive organization which has an established management philosophy and corresponding policies which allocate responsibility and hold those responsible accountable for their actions or lack of action.

The current management structure of the fire department consists of a Chief of Department, a Deputy Chief of Operations, Assistant Deputy Chief of Administration, Assistant Deputy Chief II, and 15 authorized Assistant Chiefs Only four of the Assistant Chiefs serve in full time (8 hour day, 40 week) administrative positions. The remaining eleven Assistant Chiefs work on a shift basis (6-24 hour shifts based on 21 tours of duty). The existing full time staff positions of the are:

- Chief of Department
- Deputy Chief, Operations
- Assistant Deputy Chief, Administration
- Division of Training - H-50 Assistant Chief(Temporary)
- Fire Prevention & Public Safety - H-50 Assistant Chief
- Support Services - H-50 Assistant Chief
- Airport Division - H-50 Assistant Chief (Vacant)
- Management Services - H-50 Assistant Chief (Temporary)

Most of the department's administrative organizational structure, and evolving philosophy was conceived and implemented over 30 years ago. It is apparent by the administrative history of the department that no new administrative positions or functions have been identified since 1974.

CONCLUSION: The department is attempting to respond to the challenges of the 1990's with a management structure and philosophy that has remained unchanged since the 1950's.

The department, through modified and/or new policy and redefined personnel accountability, adaptation and innovation, must meet the challenge of increased demand while financial resources are static or declining, making financial flexibility of previous years impossible. The need to be fiscally innovative, coupled with the ever-escalating demand for emergency medical services and the less dramatic but significant increase in fire-related responses call for a significant and innovative management plan, which addresses operational/administrative policy, personnel recruitment, promotions, training, education, Chief and Company officer responsibility and accountability.

PROPOSALS:

1. Reduce the number of fire suppression division headquarters from the current three to two division headquarters. Objective and analytical research has shown that this reorganization will create a substantial cost savings without a loss of service to the citizens. Battalion districts will be realigned and response assignments changed to reflect a two-division geographic response boundary.

2. Modify the department's management structure based on written policy which shall including personnel accountability as a component.

3. Clarify the chain-of-command. The major avenue for achieving coordination of resources in any organization is through a chain of command. Accountability will be enhanced with a clear reporting chain evolving with implementation of the following chain-of-command modification: Department functions will be grouped into six clear areas of responsibility under the supervision and management of an Assistant Chief responsible to the Chief of Department through a Deputy Chief, thus providing for effective management, decision making, staff coordination and accountability. The six functional areas include Operations (two field Divisions), Airport Division, Division of Training, Division of Fire Prevention and Public Safety, Division of Support Services, and Division of Administrative Services.

4. Require the Human Relations Director to submit a written report monthly to the Chief of Department regarding human relations issues, consent decree issues, EEO investigation and other EEO issues concurrently with those reports required by the Chief of Management Services. This special reporting function will ensure direct access to, and accountability from the department command staff and avoid unnecessary delays involving urgent matters.

5. Placing the Fire Service Examination Unit in a special staff position reporting directly to the Deputy Chief of Administration. This will increase unit accountability and provide needed direct input with the command staff regarding examination issues and unit administration.

6. Implement a career development program with the following objectives:

   a. A program beginning at the H-2 Firefighter level an progressing continually onward through the firefighter's career.

   b. A program that can be entered at any time.

   c. A program designed to provide the department with the most well trained and qualified persons to perform duties at the next highest rank.

A Career Development Officer position will be designated. This officer would act much like a counsellor in a college setting. The Career Development Officer (CDO) would have one-on-one contact with those firefighters enrolled in the Career Development Program. The CDO would serve as a personal advisor and regularly monitor the progress of the participant.

It is envisioned that the department's Director of Training in cooperation with the Career Development Officer will be given the responsibility to set up the career development program using the basic outline below:

   a. H-2 Firefighters to be certified as Firefighter I,II, using the California State Fire Marshall certification criteria.

   b. Chief Officer, company officer, inspector, and fire investigator training based on the California State Fire Marshal's Career development program. The Career Development Program is a three tiered professional program approved by the State Board of Fire Services for the California Fire Service.

7. Assign two H-30 Captains to the Division of Training as In-Service training officers. Presently the in-service training section is staffed by one H-39 Supervising Captain and one Lieutenant functioning as department emergency

medical coordinator. The two Captains would be assigned much needed projects relating to development of in-service training, including monitoring of field training activities, pump operations, driver training, and officer training/development.

8. Put forth a Charter change which would allow the Chief of Department to choose Deputy Chiefs not only from the rank of Assistant Chief, but also from the rank of Battalion Chief, thus allowing the Chief of Department greater latitude of choosing the most skilled and qualified officer from the largest pool of candidates within the organization. This would also enhance opportunity for appointment of minority and female members into the upper management ranks as they attain the rank of Battalion Chief.

9. Put forth a Charter change that would allow the fire Commission to demote officers found guilty of any offense or violation of the Rules and Regulations of the Department. At present, uniform members found guilty of any offense or violation of the Rules and Regulations shall be liable to be punished by reprimand, or by fine not exceeding one month's salary for any one offense, by suspension not to exceed three months pay, or by dismissal. However, the Chief for disciplinary reasons may suspend a member for a period not to exceed ten days for violation of the Rules and Regulations. This Charter change would provide more flexibility for the Chief to manage discipline at the officer level and create another component of officer accountability.

10. Request the Fire Services Examination Unit schedule an examination for the position of H-50 Assistant Chief. Civil Service testing would ensure the technical competency and leadership/administrative skills necessary of these upper level managers and eliminate the possibility of a non-merit appointment. Furthermore, it is anticipated that many minority members and women are, or will be rising to the rank of Battalion Chief, thus making these individuals eligible for a merit promotion to H-50 Assistant Chief.

ENHANCING ACCOUNTABILITY

The following section describes methods the department will implement to enhance accountability throughout the organization:

1. The A-B-C working shift system. Perhaps no specific management change offers th opportunity for increasing accountability and productivity of San Francisco Fire Fighters than the change to the A-B-C 21 tour system from the 31 tour system. This system was put in place by the administration after a year of labor negotiations via the MOU process. The A-B-C watch system aligns officers and

1. (Cont) firefighters into the same working shift on a perpetual schedule. This system allows master planning in regards to training and administrative programs affecting field personal. This system also allows for a mechanism of meaningful personnel evaluations based on consistent observation by superiors.

2. Implement a unit vacancy transfer system were all Captain and Lieutenant positions are filled, except for designated officer training positions. This process will fill all company officer positions ~~pots~~ in suppression companies during the current vacancy cycle, thus stabilizing the command structure, ensuring that a company will be supervised on regular basis by a regularly assigned officer, increasing unit/personnel accountability and avoiding constant supervisory flux as is now the case. Training spots will be designated in which newly appointed officers will be placed and be evaluated and mentored by an assigned Battalion Chief. These spots will be in active companies were diversified work environment will be experienced by the new officer.

3. Cease the practice of rotating Battalion Chiefs every year. This action which will help create stability at the battalion level. With this stability in place, administrative functions within all three tours of duty (A-B-C) would become consistent, and would eliminate the present burden on the remaining two Battalion Chiefs. Battalion Chiefs free from rotation would be in a position of shared responsibility and would be in a better position to evaluate their subordinate officers/companies within their watch (A-B or C) over a reasonable period of time, thus causing identified training to occur, and officer evaluations to become meaningful. More importantly, Battalion Chiefs would be in a position to be held more accountable for their actions within their battalions based on long term observation by the Assistant Chiefs, and successful accomplishment of programs and projects over a period of time. Stability of the Battalion Chief is especially important with the implementation of the A-B-C working shift system. In the old 31 tour work system, a Battalion Chief did not usually work consistent tours of duty with subordinate officers, thus evaluation and/or follow-up was not an on-going process due to a system flaw inherent of the 31 tour work schedule. With the implementation of the A-B-C system, if Battalion Chiefs are rotated regularly, the inherent accountability of the A-B-C work schedule is defeated.

EFFECTS OF REDUCED STAFFING ON PERMANENT AND TEMPORARY OFFICERS

If the daily staff level is reduced to 284 fire fighting personnel per day, there would be no immediate effect on permanently appointed officers due to the large number of

vacant officer positions. As of July 1, 1992, there were 31 vacant or LSSP (not replaceable until sick leave runs out) positions at or above the rank of lieutenant.

If the daily staff level is reduced to 284 fire fighting personnel per day, there would be a minimal affect on temporary officer appointments due to the large number of vacant officer positions. The Bureau of Personnel is presently making 1000 temporary appointments per month. Reducing the number of officers per day by three would reduce the temporary appointments by about 90 per month, or 9%. In the case of LWLP Lieutenants, most of the members affected would be hired by seniority rather than from a promotional list. The Personnel Center normally use up all available members on the existing promotional lists for a given watch (working day) and then begin hiring by seniority.

A daily staff level of 284 would require the closure of one Engine Company, one Truck Company, reduction of two Chief Aides, and an Assistant Chief per day.

UNIT CLOSURE PROCEDURE

The following units are eligible to be deactivated for a limited period of time on a rotational basis due to fiscal limitations.

Engine Companies: 1,2,3,5,6,8,9,10,11,13,14,18,19

Truck Companies: 1,2,3,5,6,7,8,10,13,14,18,19

NOTE:

At no time will a fire station be closed. Eligible units are assigned to multiple unit stations, with only one unit deactivated per fire station. In the case of an engine company (medical 1st responder/early defibrillation unit) all medical equipment will be transferred to the truck company, thus retaining the medical capability of the station. Rescue Companies and Fireboat Companies are not affected.

IMPLEMENTATION TIMELINES

-Administrative policy changes	**-Immediately**
-Realignment to two Divisions	**-15 days after Favorable Court Decision**
-Unit Closure	**-Immd after Court Decision**
-Charter Revisions	**-As Soon as Feasible**
-FSEU to DC Administration	**-Immediately**
-Human Resource Dir Reporting	**-Immediately**

IMPLEMENTATION TIMELINES (Continued)

-Start Selection Process for Trng Capts	**-Immediately**
-Fill All Co Officer Vacancies	**-Next Vacancy Cycle**
-Cease Battalion Chief Rotations	**-Immediately**
-H-50 Assistant Chief Examination	**-Request Immediately**
-A-B-C Working Schedule	**-Implemented**
-Career Development Program	**-Immediately**

SAN FRANCISCO FIRE DEPARTMENT ORGANIZATIONAL CHART
THRU BATTALION/BUREAU LEVEL

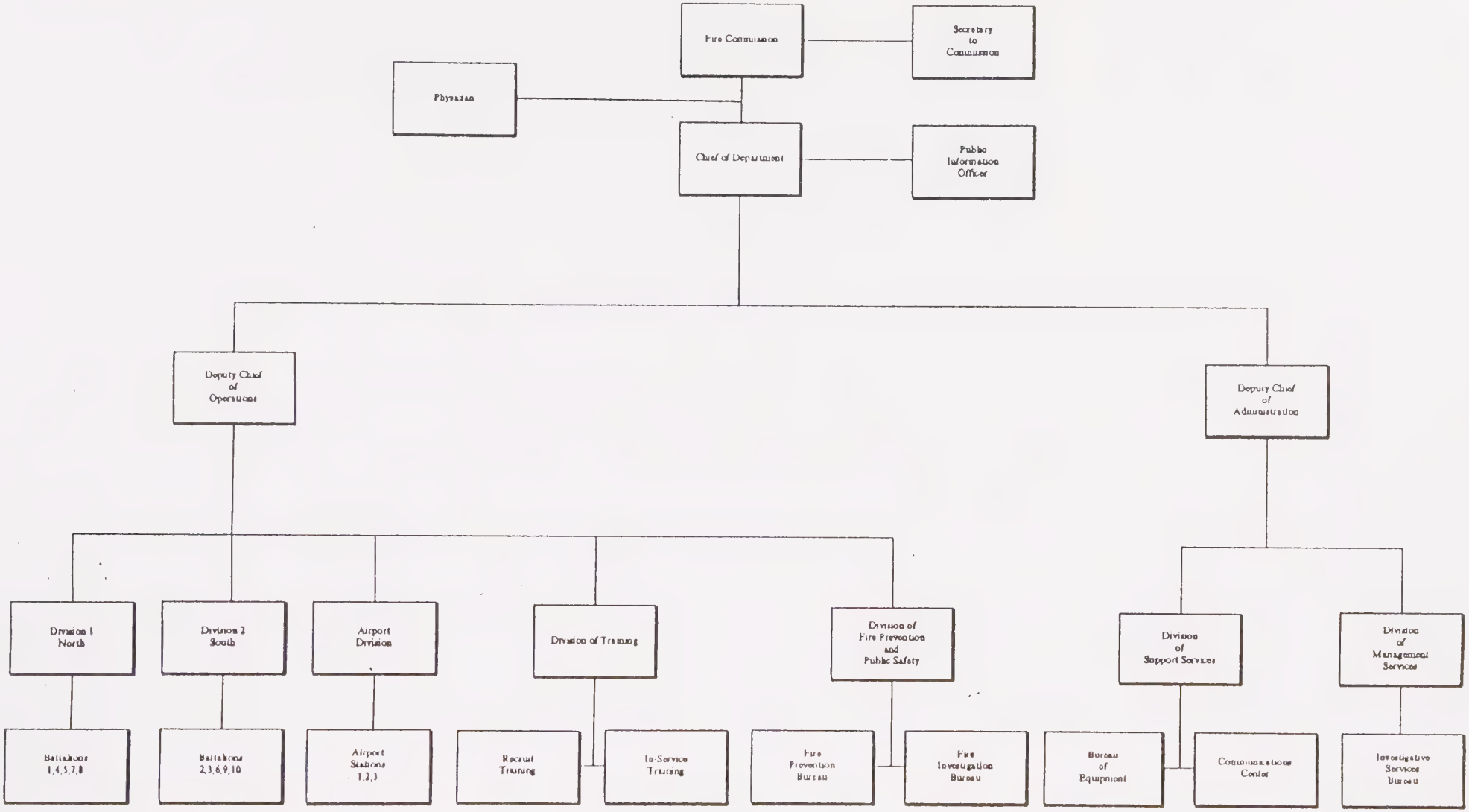


EXHIBIT 5

San Francisco
Lawyers' Committee
For Urban Affairs

301 MISSION STREET SUITE 400
SAN FRANCISCO, CALIFORNIA 94105
(415) 543-9444 FAX (415) 543-0296

September 17, 1992

Chief Joseph Medina
Chief of Department
San Francisco Fire Department
260 Golden Gate Avenue
San Francisco, CA 94102

Re: Plaintiffs' Comments on S.F.F.D.'s Proposed Management Reorganization Plan

Dear Chief Medina:

The Monitor's Sixteenth Report concluded that the San Francisco Fire Department's organizational structure and the department's failure to hold officers accountable for administrative and managerial duties have seriously impeded compliance with the Consent Decree. The court adopted the Monitor's report and ordered the department to address these problems through a comprehensive reorganizational plan no later than December 1, 1990. The department submitted its proposed plan entitled "San Francisco Fire Department Management Plan" ("Plan") on August 24, 1992.

Plaintiffs' counsels received a revised Plan on evening of September 15, 1992 and a letter urging that we respond prior to a Fire Commission hearing on September 18th. Plaintiffs submit these preliminary comments as a convenience to the Fire Commission. However, because we have recently retained an expert to review the Plan, we reserve the right to alter these preliminary comments or make additional ones after further consultation, or if the Plan is subsequently altered by the Fire Department. In addition, the Los Bamberos will be submitting additional comments by September 25, 1992.

Plaintiffs have carefully reviewed the Plan and find it inadequate. As explained in more detail below, plaintiffs have three general objections. First, far from making the fundamental changes requested by the court, this Plan largely preserves the status quo. With the possible exception of the new Assistant Chief (H-50) examinations, the proposed changes are relatively minor and unlikely to increase the department's ability to comply with the Consent Decree or hold its officers more accountable in any significant manner. Indeed, the most notable proposed change is the department's plan to significantly reduce the

responsibilities of the office currently held by the highest-ranking minority fire officer. Second, the Plan is extremely vague and fails to provide sufficient details of the proposed changes. Third, the Plan will also reduce job and employment opportunities for minority and women firefighters.

Proposed Plan Fails to Remedy the Organizational and Management Barriers to Consent Decree Compliance

The Monitor's Sixteenth Report indicates that the department needs to make fundamental changes in its organizational structure and management capabilities to comply with the Consent Decree. 16th Rep. at 6-7. The department's Plan, however, falls far short of making the necessary organizational changes. Indeed, if these proposed changes are implemented without simultaneously implementing a system to hold officers accountable, they will harm the interest of minority and women firefighters.

I. Department's Plan Fails to Makes Changes to Increase Accountability

The Monitor's Sixteenth Report ordered the department to "develop an <u>effective</u> system for holding officers accountable for their duties as administrators and managers." 16th Rep. at 6 (emphasis in original). Instead of developing such a system, however, the Plan appears to make only relatively minor changes and is vague as to how these changes will lead to increased accountability. Plaintiffs will consider each of the department's proposals to increase accountability in the order presented in the Plan.

Proposal 2: Promise to Develop Written Personnel Policy To Increase Accountability

Rather than presenting a written personnel policy to increase accountability, the department merely indicates that it will modify its existing personnel policy at some future time to include "personnel accountability as a component." This vague proposal is inadequate because it fails to comply with the Monitor's order to "develop an effective" policy for ensuring that fire officers will be held accountable in their administrative and managerial duties. <u>Id.</u> Instead of developing a policy and providing the Monitor with details of its content, the department has merely promised to develop such a policy at a future date.

Proposal 3: Clarifying the Chain-of-Command

The department claims, without explaining how, that accountability can be increased by "clarifying the chain-of-command." The department proposes grouping functions into six areas of responsibilities: Operations (two field divisions), Airport, Training, Fire Prevention and Public Safety, Support Services, and Administrative Services. A comparison of this proposed "new" organizational structure with the department's chart of its current organizational structure (attached as Exhibit A), however, indicates that there is actually little substantive change. While a few divisions have been consolidated or renamed, the proposed restructuring is almost identical to the department's current organizational structure. For instance, both current deputy chiefs will be responsible for identical functions under the "new" organizational structure. Similarly, the current Assistant Chiefs are also likely to remain responsible for their current functions.

The Plan's lack of organizational change contrasts sharply with a plan proposed by the department in 1991. See chart of the 1991 Plan (attached as Exhibit B). Under 1991 Plan, which the court relied upon in allowing the department to make Captain and Battalion Chief promotions in November 1991, the current two deputy-chiefs system was eliminated and replaced with four deputy chiefs, a Medical Director, and a Director of Administrative Services. All six positions would report to a newly-created deputy chief of the department who oversaw all departmental functions. In addition, 1991 Plan also created a Chief of Staff position to facilitate administrative functions. The court recognized that these changes were designed to improve the delivery of departmental services and to increase accountability. The department's Plan, on the other hand, does not demonstrate how the proposed minor changes will address the systemic accountability problems raised in the Monitor's Sixteenth Report.

Plaintiffs also object to Proposal No. 3 because the department fails to identify with specificity the functions for which each division will be responsible. In contrast to the 1991 Plan (Exhibit B), which identifies the specific responsibilities of each newly-created division, the proposed Plan only provides vague, general descriptions of the tasks that will be perform by each division. Without receiving more detail, it is difficult for plaintiffs to determine how this proposed plan will affect the interests of minorities and women employed by the department.

Proposals 4 & 5: Reducing the Responsibilities Assigned to the Chief of Management Services

Plaintiffs strongly object to Proposal 4 and 5. Proposal 5 would remove fire examination issues from the Chief of Management Services, a position currently held by the highest-ranking minority fire officer, Robert Demmons. Proposal 4 would require the Human Relations Director to submit employment-related reports that are duplicative of Chief Demmons's current responsibilities.[1] In a transparent move to reduce the responsibilities of Chief Demmons, the department attempts to argue that moving the EEO and examination issues from Chief Demmons to lower-ranking personnel[2] will somehow result in improved accountability.

This argument makes absolutely no sense. First, Chief Demmons has been recognized as one of the few administrators in the department who have actively tried to implement the terms of the Consent Decree, and he has particular expertise in EEO and fire examination matters. See, e.g., 16th Rep. at 8 (praising Chief Demmons for presenting "an invaluable critique of the examination process and constructive suggestions for future efforts"). To reduce his responsibilities when he has demonstrated effectiveness on these issues would send a chilling message to department employees who have actively fought for equal treatment of minority and women firefighters.

Second, aside from the personal attributes of Chief Demmons, removing the EEO and examination responsibilities from the direct chain-of-command and turning them over to lower level personnel will probably decrease accountability. The Plan attempts to justify these changes on the grounds that command staff needs more access to these issues. If lack of access is a problem, then the solution is to provide the Chief of Management Services with more direct access to higher management, not to create new positions that will undercut the performance of these duties. The 1991 Plan,

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[1] Although it is not clear from the Plan, Plaintiffs assume that the Human Relations Director will no longer submit the employment-related reports to the Chief of Management Services.

[2] The EEO responsibilities will be given to the Human Relations Director, and the Fire Service Examination Unit will be assigned to a "special staff position" that reports to the Deputy Chief Olson.

for example, recognized that increased accountability could occur only if the Chief of Management Services had strong powers to implement the Consent Decree and direct access to command staff. Accordingly, the 1991 Plan upgrades Management Services to a division, thereby giving it direct access to the Deputy Chief of the Department, and provides it with broad responsibilities for all personnel and Consent Decree matters. See Exhibit B. Plaintiffs urge the department to strengthen this office along the lines of the 1991 Plan.

Rotation of Battalion Chiefs and Unit Vacancy Transfer System

Plaintiffs urge the department to continue rotating the Battalion Chiefs. Our clients believe that continuing these rotations will allow minorities and women to receive varied experiences that will better prepare them to hold higher command positions. Without a rotation system, our clients also fear that minority and women Battalion Chiefs will receive positions that have less responsibilities than their white male colleagues. A rotation system, therefore, can help minimize the impact of discrimination against fire officers. For similar reasons, Plaintiffs also oppose implementing a unit vacancy transfer system to assign all Captains and Lieutenants to permanent positions.

Department's Other Proposals to Increase Accountability

The department has also proposed two other steps to increase accountability. These include amending the City Charter to allow the Fire Commission to demote officers and continuing to use the department's A-B-C 21 work shift system. Plaintiffs oppose implementing either measures until the department first develops an effective personnel policy that will hold officers and managers accountable. Without such a policy, implementing these other proposals is likely to actually harm minority and women firefighters.

For instance, black firefighters are currently disciplined and terminated at a rate that far exceeds white firefighters.[3] These disproportionately high rates are

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[3] Our clients indicate that between fiscal years 1971-91, the department disciplined a total of 182 firefighters and officers. Sixty-seven of the disciplinary actions (37 percent) occurred against blacks, even though they have never accounted for more than 10 percent of the department's

due, in part, to the disparate treatment of Black firefighters. Without developing effective policies to make department officers accountable when making personnel decisions, allowing the Fire Commission to demote officers will continue to disproportionately harm Black firefighters.

Similarly, our clients indicate that the department's current use of the A-B-C 21 work shift system has reduced officer accountability. Under this system, fire officers with more seniority, who as a group are disproportionately white and male, are allowed first opportunity to select their work tour. These selections allow individuals who want to work together to select identical work shifts. The result has been that individuals who do not like to work with minorities or women have formed "cliques" at certain fire houses and created potentially hostile work environments for others.[4] Because individuals within these cliques are usually friends, they are also less likely to report misconduct by fellow officers,[5] including matters related to the Consent Decree. Again, if the department is going to continue to use the A-B-C 21 work shift, it must first develop a system to hold its officers accountable.

II. Other Proposals That Will Affect the Interest of Minority and Women Firefighters

Proposal 1: Reduce the Number of Fire Suppression Divisions From Three to Two

Plaintiffs object to this proposal to the extent that it reduces hiring and promotional opportunities for minorities and women. Plaintiffs assume that, at the very least, one Assistant Chief and one Chief Aide (H-10) positions will be abolished. These reductions will reduce the opportunities available for minorities and women to

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firefighters and officers.

[4] For instance, since the A-B-C 21 system went into effect, at least two women firefighters have reported receiving harassing job-related phone calls at home. Several black firefighters have also complained of racial harassment at firehouses.

[5] Our clients indicate that drinking at fire houses has increased significantly since the A-B-C 21 system was implemented because firefighters are less likely to worry their friends will report them.

obtain management positions in the department. Because the department's description of this proposal and the attached chart is very vague, plaintiffs are unable to determine what other positions will be eliminated. Plaintiffs request that the City provide more information regarding what other positions will be eliminated. In addition, the department indicates that "[o]bjective and analytical research has shown that this reorganization will create a substantial savings without a loss of service to the citizens." Please provide plaintiffs with all documents that support this conclusion.

Proposal 6: Implement A Career Development Program

Plaintiffs welcome the department's attempt to provide a career development program. However, plaintiffs request that the city first provide written assurances that participation in such a program will not become a prerequisite or an element of any secondary criteria for promotions within the department.

Proposal 7: Assign Two H-30 Captains to the Division of Training

As plaintiffs have indicated in ongoing negotiations with the department, the addition of two H-30 Captains still leaves the city with inadequate personnel to properly train firefighters. As the Monitor indicated in the Sixteenth Report, the lack of proper training opportunities have disproportionately harmed minorities and women. 16th Rep. at 16-19.

Proposal 8: Charter Amendment To Appoint Deputy Chiefs From the Rank of Battalion Chiefs

Plaintiffs agree that the department should not limit its selection of Deputy Chiefs to the rank of Assistant Chiefs. However, Proposal 8 remains too restrictive. Plaintiffs request that the City amend its charter to allow Deputy Chiefs be drawn from the ranks of Battalion Chiefs and Captains. Such a proposal will allow the department to integrate its upper management more quickly while still retaining qualified individuals to serve as Deputy Chiefs.

Proposal 10: Schedule Examinations for H-50 Assistant Chief Positions

While Plaintiffs still maintain that the Assistant Chief position should be abolished, we recognize that the 9/15/92 draft of this proposal contains elements that

deserve further discussion. We are encouraged that one evaluation component of this examination will be a candidate's commitment to meeting affirmative action goals and the requirements of the Consent Decree. However, there are number of other questions that Proposal 10 does not address. For instance, who will be making the selections for Assistant Chief? We have been told that the selections will be made by individuals who not employed by the department. If this is true, what kind of input will parties to the Consent Decree have in determining the composition of the selection panel? Plaintiffs also need a more thorough description of what specific components will be tested on the H-50 examination. In addition, does the department intend to use a sliding band for these selections? All of these issues still need to explained in more detail.

Proposal 11: Establishing a Scholarship Program

Plaintiffs request assurances that all firefighters, regardless of whether they obtain scholarships, will receive adequate training and career development education.

Overall, plaintiffs are disappointed that the department's proposed reorganization plan fails to adequately address problems that prevent the department from achieving full compliance with the Consent Decree. Chief among these problems is the failure of the department to develop a system to hold fire officers accountable. We urge you to reconsider your current proposals and are willing to work with you to develop a more meaningful reorganization plan.

Sincerely,

Theodore Wang

cc Fire Department Commission
Court Monitor Barbara Phillips
George Riley
Co-Counsels

Exhibit A

from 90-91 Annual Report

SAN FRANCISCO FIRE DEPARTMENT

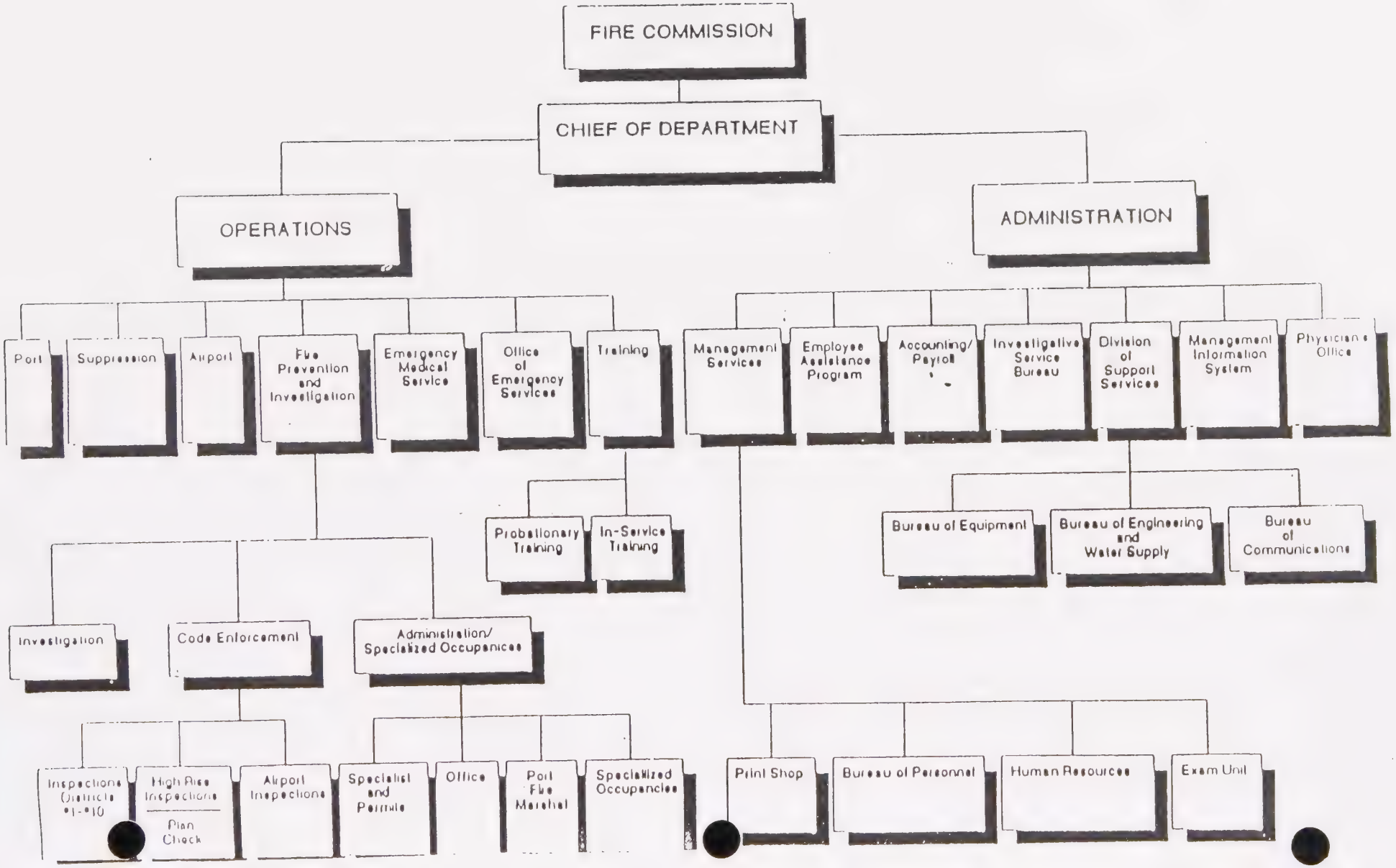
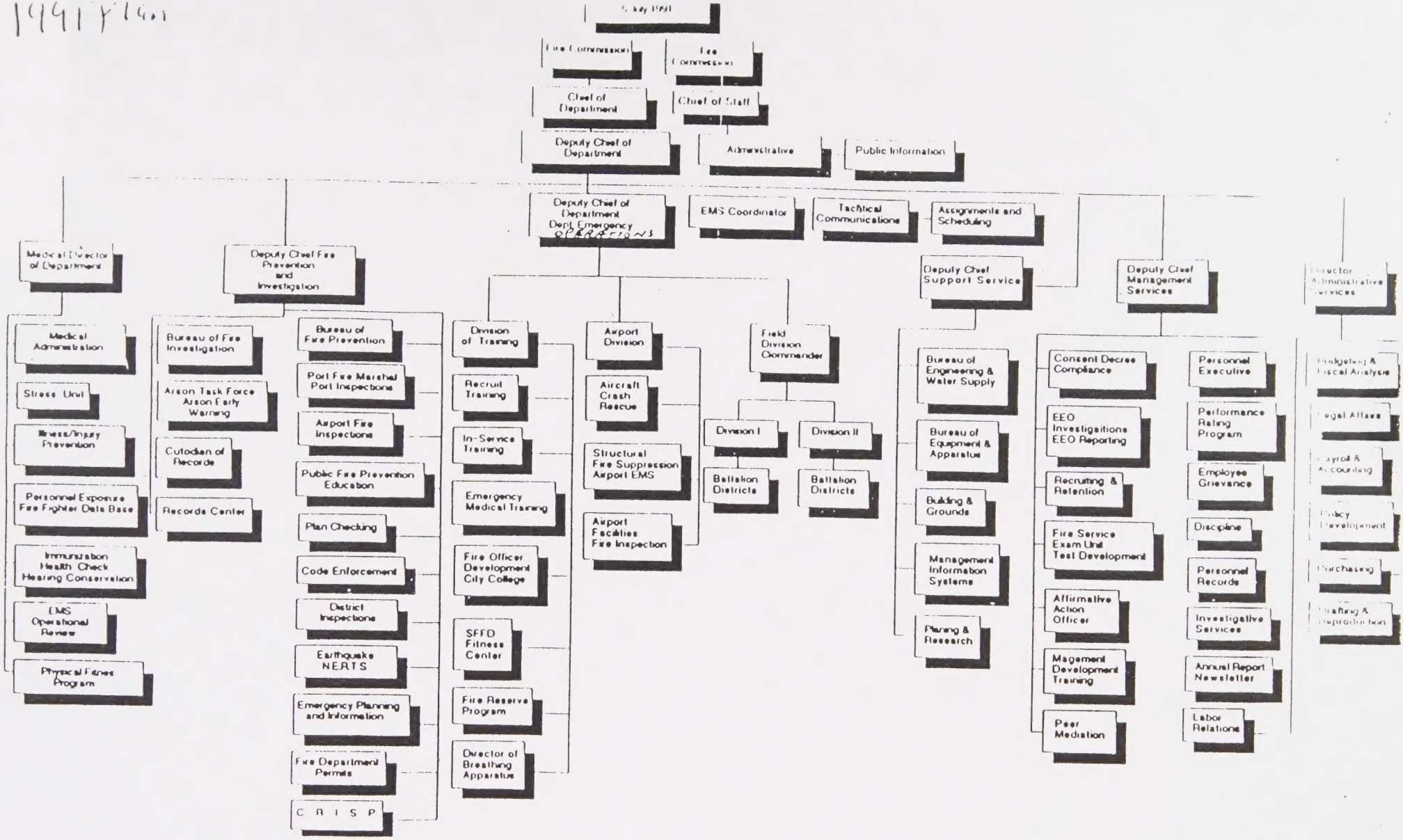


Exhibit B

1991 Plan


Fire Commission
Fire Commission
Chief of Department
Chief of Staff
Deputy Chief of Department
Administrative
Public Information
Deputy Chief of Department Dept. Emergency OPERATIONS
EMS Coordinator
Tactical Communications
Assignments and Scheduling
Medical Director of Department
Deputy Chief Fire Prevention and Investigation
Deputy Chief Support Service
Deputy Chief Management Services
Director Administrative Services
Medical Administration
Stress Unit
Illness/Injury Prevention
Personnel Exposure Fire Fighter Data Base
Immunization Health Check Hearing Conservation
EMS Operational Review
Physical Fitnes Program
Bureau of Fire Investigation
Arson Task Force Arson Early Warning
Custodian of Records
Records Center
Bureau of Fire Prevention
Port Fire Marshal Port Inspections
Airport Fire Inspections
Public Fire Prevention Education
Plan Checking
Code Enforcement
District Inspections
Earthquake NERTS
Emergency Planning and Information
Fire Department Permits
C A I S P
Division of Training
Recruit Training
In-Service Training
Emergency Medical Training
Fire Officer Development City College
SFFD Fitness Center
Fire Reserve Program
Director of Breathing Apparatus
Airport Division
Aircraft Crash Rescue
Structural Fire Suppression Airport EMS
Airport Facilities Fire Inspection
Field Division Commander
Division I
Division II
Battalion Districts
Battalion Districts
Bureau of Engineering & Water Supply
Bureau of Equipment & Apparatus
Building & Grounds
Management Information Systems
Planing & Research
Consent Decree Compliance
EEO Investigaitions EEO Reporting
Recruiting & Retention
Fire Service Exam Unit Test Development
Affirmative Action Officer
Magement Development Training
Peer Mediation
Personnel Executive
Performance Rating Program
Employee Grievance
Discipline
Personnel Records
Investigative Services
Annual Report Newsletter
Labor Relations
Budgeting & Fiscal Analysis
Legal Affairs
Payroll & Accounting
Policy Development
Purchasing
Drafting & Reproduction